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# PENNSYLVANIA BULLETIN

Volume 44  
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Number 51  
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**Latest Pennsylvania Code Reporter  
(Master Transmittal Sheet):**

**No. 481, December 2014**

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# READER'S GUIDE TO THE *PENNSYLVANIA BULLETIN* AND THE *PENNSYLVANIA CODE*

## *Pennsylvania Bulletin*

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Pennsylvania Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

### **Adoption, Amendment or Repeal of Regulations**

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances when the agency may omit the proposal step; it still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania Bulletin* before it can take effect. If the agency

wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, it must repropose.

### **Citation to the *Pennsylvania Bulletin***

Cite material in the *Pennsylvania Bulletin* by volume number, a page number and date. Example: Volume 1, *Pennsylvania Bulletin*, page 801, January 9, 1971 (short form: 1 Pa.B. 801 (January 9, 1971)).

### ***Pennsylvania Code***

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa. Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

### **How to Find Documents**

Search for your area of interest in the *Pennsylvania Code*. The *Pennsylvania Code* is available at [www.pacode.com](http://www.pacode.com).

Source Notes give the history of regulations. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

A chronological table of the history of *Pennsylvania Code* sections may be found at [www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde\\_index.cfm](http://www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde_index.cfm).

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred. The *Pennsylvania Bulletin* is available at [www.pabulletin.com](http://www.pabulletin.com).

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Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from a rule or regulation is enclosed in brackets [ ] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

#### **Fiscal Notes**

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised. A fiscal note provides the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the 5 succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the 5 succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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# List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2014.

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3000	4996

**234 Pa. Code (Rules of Criminal Procedure)****Adopted Rules**

1	3056
4	3056, 4168
5	239, 477, 1309, 7830
7	4168
10	3056

**Proposed Rules**

1	769
4	475, 577, 769, 2369
5	778
7	475, 2369
9	4170
10	769

**237 Pa. Code (Juvenile Rules)****Adopted Rules**

1	781, 1868, 5447, 6087
3	5447, 7641
4	5447
11	781, 5447, 6087

**Proposed Rules**

4	246, 3306
11	9
13	3307
15	3307
16	3307

**246 Pa. Code (Minor Court Civil Rules)**

**Adopted Rules**

100	5564
300	13, 3310, 5183
500	13, 14
800	14
1000	14
1200	7642

**Proposed Rules**

300	10, 479
800	4477
1000	4342

**249 Pa. Code (Philadelphia Rules)**

Unclassified	883, 3066, 3067, 3311, 3313, 3747, 6657, 7170, 7350
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**252 Pa. Code (Allegheny County Rules)**

Unclassified	5830, 6554, 7018, 7646
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**255 Pa. Code (Local Court Rules)**

Unclassified	16, 17, 18, 19, 20, 21, 23, 24, 25, 247, 324, 325, 480, 481, 581, 991, 1123, 1124, 1428, 1752, 1753, 1868, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 2054, 2200, 2201, 2216, 2372, 2510, 2511, 2513, 2515, 2620, 2638, 2639, 2747, 2749, 2750, 2847, 2848, 3086, 3088, 3089, 3319, 3321, 3495, 3759, 3927, 4175, 4347, 4352, 4997, 4998, 5008, 5185, 5187, 5188, 5326, 5456, 5457, 5458, 5459, 5461, 5462, 5564, 5656, 5657, 5755, 5830, 5832, 5833, 5834, 5963, 6089, 6091, 6093, 6094, 6226, 6227, 6228, 6229, 6555, 6750, 6766, 6767, 6915, 6916, 6917, 6919, 7018, 7171, 7354, 7355, 7364, 7439, 7440, 7441, 7515, 7660, 7661, 7662, 7663, 7834
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# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[ 4 PA. CODE CH. 6 ]

[ EXECUTIVE ORDER NO. 2014-06 ]

### Interoperable Public Safety and Emergency Communications Governance

December 2, 2014

*Whereas*, the Commonwealth of Pennsylvania recognizes the importance of public safety and emergency response communications through the support of the National Emergency Communications Plan (NECP) of Title XVIII of the Homeland Security Act of 2002 (6 *United States Code* 101 et seq.), as amended in 2006, that establishes a minimum level of interoperable communications to improve nationwide response efforts and bolster situational awareness, information sharing, and command and control operations that drive measurable and sustainable improvements consistent with the National Response Framework, National Incident Management System, National Preparedness Guidelines, and National Preparedness Goal in coordination with stakeholders from all levels of government and from the private sector; and

*Whereas*, the NECP seeks to build on the substantial progress that has been made over the last several years among the key developments at the federal, state, regional, and local levels, the commonwealth seeks to do the same through the continued development and implementation of Pennsylvania's Statewide Communications Interoperability Plan (SCIP) that identifies near- and long-term initiatives for improving public safety and emergency response communications interoperability; and

*Whereas*, the majority of emergency incidents occur at the local level, the Governor's Office of the Commonwealth of Pennsylvania in coordination with the United States Department of Homeland Security (DHS), Office of Emergency Communications (OEC), works to improve emergency communications: specifically, operability, interoperability, and continuity of communications; and

*Whereas*, the commonwealth accepts the recommendation of the OEC to create a Statewide Interoperability Governing Board (SIGB) to ensure effective and efficient interoperable communications among public safety and emergency response agencies at all levels of government to support the continued development and implementation of the commonwealth's SCIP, originally approved in 2007 and filed with DHS; and

*Whereas*, the U.S. Middle Class Tax Relief and Job Creation Act of 2012 authorizes the construction of the Nationwide Public Safety Broadband Network and establishes the First Responder Network Authority (FirstNet), requiring FirstNet to consult with state and local jurisdictions, the commonwealth recognizes the need to establish a committee that can effectively collect the requirements of Pennsylvania's public safety community and communicate them to FirstNet.

*Now, Therefore*, I, Tom Corbett, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of

the Commonwealth of Pennsylvania and other laws, do formally establish the Governor's Public Safety Communications Council.



Governor

**Fiscal Note:** GOV-14-06. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR'S OFFICE

#### CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

#### Subchapter UU. GOVERNOR'S PUBLIC SAFETY COMMUNICATIONS COUNCIL

Sec.	
6.561.	Purpose.
6.562.	Responsibilities.
6.563.	Composition.
6.564.	Cooperation by State agencies.
6.565.	Bylaws and subcommittees.
6.566.	Reports.
6.567.	Effective date.
6.568.	Termination date.

#### § 6.561. Purpose.

The purpose of the Governor's Public Safety Communications Council (PSCC) is to create a central intergovernmental and interdisciplinary body for interoperable communications planning and implementation to mitigate the challenges of interoperable communications for public safety and emergency communications. The PSCC will serve as the Commonwealth's Statewide Interoperability Governing Board.

#### § 6.562. Responsibilities.

The Governor's Public Safety Communications Council (PSCC) does not have authority to make binding directives, but shall recommend means for agencies, the Governor, and other public safety and emergency communications organizations to achieve the following goals:

(1) *Operability.* Ensure the ability to establish and sustain emergency communications in support of mission operations.

(2) *Interoperability.* Ensure emergency communications capability among jurisdictions, disciplines and levels of government, across frequency bands and technologies, in real time, as needed and as authorized.

(3) *Continuity of communications.* Ensure the ability of emergency response agencies to maintain communications in the event of damage to or destruction of the primary infrastructure.

(4) *Strategic planning.* Maintain Pennsylvania's Statewide Communications Interoperability Plan (SCIP), on file with the United States Department of Homeland Security, and oversee its implementation.

(5) *Inter-jurisdictional agreements.* Promote and oversee the establishment of communications interoperability agreements among jurisdictions.

(6) *Grants.* Review State, county and local emergency communications grant applications in accordance with Federal grant guidelines to ensure consistency with the Statewide plan.

(7) *Policy.* Promote and oversee the development and enforcement of policies, standards and procedures for interoperable communications.

(8) *Outreach.* Develop and implement an interoperability outreach plan to ensure awareness of Federal and State policies, programs, standards and initiatives for interoperable emergency communications.

(9) *Measurement and evaluation.* Measure progress in communications interoperability against the goals and standards in Pennsylvania's SCIP to ensure that the decisions of the PSCC are guided by accurate assessment of progress.

**§ 6.563. Composition.**

(a) The Governor's Public Safety Communications Council (PSCC) shall be comprised of the following members, each of whom will be appointed by and serve at the pleasure of the Governor:

(1) A designee appointed by the Governor, who shall serve as Chairperson.

(2) Three county commissioners as designated by the County Commissioners Association of Pennsylvania.

(3) One representative from up to 20 associations and other organizations representing public safety and emergency communications practitioners and communications and utility industry sectors, to include the following:

(i) Pennsylvania Chiefs of Police Association.

(ii) Pennsylvania Emergency Health Services Council.

(iii) Energy Association of Pennsylvania.

(iv) Pennsylvania Telephone Association.

(v) Pennsylvania Public Transportation Association.

(vi) Association of Public-Safety Communications Officials.

(vii) Pennsylvania Chapter of the National Emergency Number Association.

(viii) Keystone Emergency Management Association.

(ix) Pennsylvania Professional Fire Fighters Association.

(x) Firemen's Association State of Pennsylvania.

(xi) Pennsylvania Wireless Association.

(xii) Broadband Cable Association of Pennsylvania.

(xiii) Pennsylvania Municipal League.

(b) The PSCC shall be comprised of the following members, each of whom shall serve by virtue of their public positions:

(1) Chief Information Officer, Office for Information Technology, Governor's Office of Administration or a designee.

(2) Commissioner, Pennsylvania State Police or a designee.

(3) Director, Pennsylvania Emergency Management Agency or a designee.

(4) Director, Pennsylvania Office of Homeland Security or a designee.

(5) Superintendent, Capitol Police Department, Department of General Services or a designee.

(6) Secretary, Department of Corrections or a designee.

(7) Secretary, Department of Transportation or a designee.

(8) The Adjutant General, Pennsylvania National Guard or a designee.

(9) Secretary, Department of Conservation and Natural Resources or a designee.

(10) Secretary, Department of Health or a designee.

(11) Pennsylvania Attorney General or a designee.

(12) Chairperson, Board of Probation and Parole or a designee.

(13) Chairperson, Pennsylvania Turnpike Commission or a designee.

(14) Chairperson, Pennsylvania Public Utility Commission or a designee.

(15) Executive Director, Game Commission or a designee.

(16) Executive Director, Fish and Boat Commission or a designee.

(17) Pennsylvania State Fire Commissioner or a designee.

(18) Director, Governor's Policy Office or a designee.

(19) Governor's General Counsel or a designee.

(c) The PSCC shall be comprised of the following legislative appointments with one member appointed by each of the following:

(1) The President Pro Tempore of the Senate.

(2) The Minority Leader of the Senate.

(3) The Speaker of the House of Representatives.

(4) The Minority Leader of the House of Representatives.

**§ 6.564. Cooperation by State agencies.**

Agencies under the Governor's jurisdiction shall cooperate with the Governor's Public Safety Communications Council and provide assistance and support as needed to help carry out its functions effectively.

**§ 6.565. Bylaws and subcommittees.**

The Governor's Public Safety Communications Council shall create bylaws and subcommittees as necessary to meet the responsibilities in this chapter.

**§ 6.566. Reports.**

The Chairperson of the Governor's Public Safety Communications Council will make an annual summary of proceedings to the Governor and will refer any urgent issues to the Governor for resolution.

**§ 6.567. Effective date.**

This subchapter takes effect immediately.

**§ 6.568. Termination date.**

This subchapter remains in effect unless revised or modified by the Governor.

[Pa.B. Doc. No. 14-2608. Filed for public inspection December 19, 2014, 9:00 a.m.]

# THE COURTS

## Title 201—RULES OF JUDICIAL ADMINISTRATION

[ 201 PA. CODE CHS. 40 AND 50 ]

**Adoption of New Rules 4000—4016 and Rescission of Rules 5000.1—5000.13 of the Rules of Judicial Administration; No. 436 Judicial Administration Doc.**

### Order

*Per Curiam*

*And Now*, this 4th day of December, 2014, it is *Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 4000—4016 of the Pennsylvania Rules of Judicial Administration are adopted in the following form. It is furthered *Ordered* that Rules 5000.1—5000.13 of the Pennsylvania Rules of Judicial Administration are rescinded.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective June 1, 2015.

### Annex A

#### TITLE 201. RULES OF JUDICIAL ADMINISTRATION

##### CHAPTER 40. UNIFORM RULES GOVERNING COURT REPORTING AND TRANSCRIPTS

(*Editor's Note*: The following chapter is new and printed in regular type to enhance readability.)

Rule	
4001.	Scope of Rules. Policy.
4002.	Definitions.
4003.	Committee on Court Reporting and Transcripts.
4004.	Qualifications and Certification of Court Reporters and Court Recorders.
4005.	Approval of Transcriptionists.
4006.	Employment and Duties of Court Reporting Personnel.
4007.	Requests for Transcripts.
4008.	Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof.
4009.	Fees Payable to the Court Reporter or Transcriptionist by the Judicial District. Local Rule.
4010.	Format of Transcript.
4011.	Deadline for Delivery of Transcript.
4012.	Sanctions for Delayed Transcript.
4013.	Certification of Transcript.
4014.	Redaction of Personal Data Identifiers.
4015.	Ownership of Notes.
4016.	Storage and Retention.

#### Rule 4001. Scope of Rules. Policy.

(A) These rules shall govern the making, preserving and transcribing of the record of proceedings before any trial court of record within the Unified Judicial System.

(B) Because complete and verbatim notes of testimony and transcripts are integral to the official record of court proceedings, it is the policy of the Unified Judicial System to ensure that (1) qualified court reporting services are available in each judicial district and that court reporters are fairly compensated, (2) transcripts are timely produced and are affordable to all litigants, and (3) efficient technologies are employed to reduce litigation costs and conserve public resources.

#### Comment

These rules are promulgated pursuant to the administrative and supervisory authority granted to the Supreme

Court by Article V, § 10 of the Pennsylvania Constitution. *See also* 42 Pa.C.S.A. § 1724(a)(10).

#### Rule 4002. Definitions.

*Condensed transcript* means a miniaturized copy of the original transcript printed in such a way as to place more than one page of transcript on a single sheet of paper.

*Court recorder* means an individual employed, contracted or utilized by a court to record testimony by electronic means (audio or audio-visual).

*Court reporter* means an individual employed, contracted or utilized by a court to record testimony whether through use of a stenotype machine, stenomask equipment, written symbols, or otherwise.

*Court reporter's dictionary* is a computer file that matches a court reporter's steno strokes with English text. A court reporter's personal dictionary is an essential part of a computer aided transcription (CAT) system.

*Court reporting* personnel includes court reporters, court recorders, transcriptionists and any other personnel whether employed or contracted who make the court record for use in any Pennsylvania court.

*Daily transcript* means a transcript delivered within eighteen (18) hours of an official request, not including weekends or official court holidays. For the purposes of additional payment, a transcript is a daily transcript only if it is in fact delivered within the above time limit.

*Digital audio files* are those files created by digital recording systems and saved in a format that allows storage and playback through computer applications.

*Electronic transcript* means an official transcript delivered in an electronic, non-paper medium.

*Expedited transcript* means a transcript delivered within seventy-two (72) hours of an official request, not including weekends or official court holidays. For the purposes of additional payment, a transcript is an expedited transcript only if it is in fact delivered within the above time limit.

*Filing office* refers to an office without regard to title that has the responsibility and function in each judicial district to maintain the official dockets and case files of the court.

*Financial institution account identifiers* means financial institution account numbers, credit card numbers, debit card numbers, PINS or passwords to secure accounts, and other account identifying information.

*Notes of testimony* means the official recording of an oral proceeding made whether through use of an electronic device, stenomask equipment, stenotype machine, written symbols, or otherwise; and includes the dictionary, media storage files, and other documentation needed to prepare a transcript.

*Ordinary transcript* means a transcript ordered for delivery within the time limits set forth in Rule 4011.

*Rough draft transcript* (computer diskette, hard paper copy, or electronically distributed) is an unedited and uncertified transcript that may contain untranslated or mistranslated stenotype symbols. This also includes notes that appear on paper, unedited electronic data, tapes or other media in the original state in which they existed when they were taken at the time of testimony.



*Transcript* means a certified, written, verbatim record of a proceeding.

*Transcriptionist* means any person employed, contracted or utilized by a court to prepare a transcript of a proceeding from an electronic or other recording. A court recorder and a court reporter may also serve as a transcriptionist.

**Rule 4003. Committee on Court Reporting and Transcripts.**

(A) The Committee on Court Reporting and Transcripts shall consist of the following members appointed by the Supreme Court of Pennsylvania, one of whom shall be designated as Chair and one of whom shall be designated as Vice-Chair:

- (1) One representative of the Superior Court of Pennsylvania;
- (2) One representative of the Commonwealth Court of Pennsylvania;
- (3) Two president judges of the courts of common pleas chosen from among the judicial districts of the Commonwealth;
- (4) The district court administrator of the Philadelphia County Court of Common Pleas;
- (5) The district court administrator of the Allegheny County Court of Common Pleas;
- (6) Two district court administrators chosen from among the judicial districts of the Commonwealth other than Philadelphia and Allegheny;
- (7) Two providers of court reporting services representing the various methods currently in usage within Pennsylvania; and
- (8) Two members of the Pennsylvania Bar.

(B) Initial appointments shall be for one-, two- or three-year terms, and these members may serve one additional three-year term. Thereafter appointments shall be for three years and members shall serve no more than two consecutive three-year terms. A replacement appointee shall serve for the balance of the unexpired term.

(C) The Committee shall review current rules and practices, and, upon concurrence of the Court Administrator, recommend revisions to the Uniform Rules Governing Court Reporting and Transcripts as may be necessary to effectuate the policy of these rules.

(D) The Administrative Office shall provide staff support to the Committee.

**Rule 4004. Qualifications and Certification of Court Reporters and Court Recorders.**

(A) No person shall be employed or utilized by a court as a court reporter or court recorder unless certified by the president judge or his or her designee as meeting the minimum criteria set forth in subdivision (B)(1), (B)(2), or (C) except

- (1) those persons already employed or utilized by a court at the time of the adoption of these rules or
- (2) those court reporters who hold and maintain a professional certification.

(B) The minimum criteria for certification of a court reporter are the following:

(1) stenographic requirements: the court reporter is capable of recording proceedings at a 95% accuracy level at the following speeds:

- (a) literary at 180 w.p.m.
- (b) jury charge at 200 w.p.m.
- (c) testimony and question and answer at 225 w.p.m.

(2) voice writing requirements: the court reporter is capable of recording proceedings at a 95% accuracy level at the following speeds:

- (a) literary at 200 w.p.m.
- (b) jury charge at 225 w.p.m.
- (c) two-voice question and answer at 250 w.p.m.

(C) The minimum criteria for certification of a court recorder are the following:

- (1) full familiarity with the controls of the electronic audio or audio-visual equipment;
- (2) adequate hearing acuity to assure a high quality recording;
- (3) insistence on clarity of the recording;
- (4) ability to quickly diagnose and correct routine malfunctions;
- (5) proficiency in note taking; and
- (6) understanding of courtroom procedures and vocabulary.

(D) All persons employed or utilized by a court as a court reporter or court recorder, including those employed or utilized prior to the adoption of these rules, shall be recertified as meeting the above criteria at least every three (3) years.

(1) Court reporters shall be recertified upon completion of thirty (30) hours of continuing professional education every three (3) years. Proof of attendance shall be submitted to the president judge or his or her designee.

(2) Court recorders shall be recertified every three (3) years. The president judge may rely upon reports of the district court administrator and the judicial district's judges and quasi-judicial officers to determine whether the requirements set forth in subdivision (C) are satisfactorily met. Those reports must be based on recent courtroom experience and a review of work products (e.g., lists, log notes, CD recordings) for accuracy, timeliness and quality.

(E) Any person who fails to meet the minimum criteria at the time of recertification shall be given six months to comply. Anyone who fails to comply with this subdivision shall be prohibited from serving as a court reporter or court recorder.

(F) The president judge shall verify annually to the Court Administrator compliance with this rule on forms developed by the Administrative Office.

**Rule 4005. Approval of Transcriptionists.**

No person or organization shall be employed or utilized by a court as a transcriptionist unless approved by the president judge.

**Comment**

The American Association of Electronic Reporters and Transcribers (AAERT) recommends the following criteria for transcriptionists: (a) scores at least 70% on an examination with a timed, 100-question, written examination on technical aspects of electronic reporting, courtroom procedures, and vocabulary; and (b) scores at least 98% accuracy on at least ten text pages produced during a half-hour AAERT-prepared audiotape in ASCII, Word, WordPerfect, or WordStar.

**Rule 4006. Employment and Duties of Court Reporting Personnel.**

(A) The president judge or his or her designee shall select, appoint, and supervise court reporting personnel for the district. The number of court reporting personnel in any district shall be adequate to support the full and unrestricted operation of the courts.

(B) The president judge or his or her designee shall assign court reporting personnel in a manner as to

(1) cover all proceedings and timely produce all transcripts; and

(2) substantially equalize the workload of recording testimony, and of transcript production and generating fees.

(C) All court reporting personnel are officers of the court with a duty to comply with all court regulations and orders and to maintain the highest standards of professional and ethical conduct.

(D) No court reporting personnel shall work outside his or her official duties unless in full compliance with all rules regarding timeliness of transcripts.

(E) All court reporters using computer-aided transcription are required to submit to the president judge or his or her designee a copy of the reporter's dictionary upon employment or contractual engagement. An updated dictionary must be provided to the president judge or his or her designee at least quarterly.

(F) Court reporters, court recorders and transcriptionists shall file a monthly report with the district court administrator of all ordered or requested transcripts in chronological order indicating the date of each order or request, the case name and number, whether the transcript requires rapid completion (e.g., a Children's Fast Track appeal), the approximate length of the record to be transcribed, the status of the transcription, and the expected date of the filing of the transcript. A court reporter, court recorder or transcriptionist must coordinate the district court administrator or his or her designee whenever courtroom coverage must be arranged in order to timely deliver the transcript.

(G) The district court administrator shall prepare a summary statistical report of the number of transcripts requested, delivered and pending, as well as the age of all pending transcripts, which shall be forwarded to the Administrative Office quarterly on forms designed by the Court Administrator.

(H) All court reporting personnel and county administrative personnel are required to comply with all standing and special requests of the Administrative Office for information, including information on transcript cost and fee payments and data relative to transcript production, delivery, and delay.

**Rule 4007. Requests for Transcripts.**

(A) All requests for transcripts shall be set forth on a standardized form provided by the Court Administrator. The form shall indicate the current rates authorized to be charged for transcripts under these rules.

(B) For an ordinary transcript, the party requesting a full or partial transcript of a trial or other proceeding shall file the original request with the appropriate filing office of the court. Copies of the formal request shall be delivered to:

(1) the judge presiding over the matter;

(2) the court reporter, court recorder or transcriptionist;

(3) the district court administrator or his or her designee; and

(4) opposing counsel, but if not represented, the opposing party.

(C) In courts where daily, expedited or rough draft transcripts are available, requests for these transcripts shall be filed in writing in the appropriate filing office at least 10 days prior to the proceeding. Copies of the written request shall be delivered as required by subsection (B). In the event of an emergency, a party may request by oral motion a daily, expedited or rough draft transcript.

(D) When a private litigant who is responsible for the costs requests a transcript,

(1) the litigant ordering a transcript shall make partial payment of the estimated cost of the transcript to the court's designee. Deposit checks are to be made payable to the judicial district or county.

(2) the court reporter or transcriptionist shall prepare the transcript upon direction of the court's designee.

(3) the court reporter, court recorder or transcriptionist shall notify the ordering party and the court's designee of the completion of the transcript and deliver a copy of the transcript to the judge presiding over the matter. Checks for the final balance are to be made payable to the judicial district or county.

(4) upon payment of any balance owed, the court reporter, court recorder or transcriptionist shall deliver the original transcript to the appropriate filing office and copies to the parties.

(E) When a transcript is requested for which the court or county is responsible for the cost, the court reporter, court recorder or transcriptionist shall prepare the transcript upon receipt of the request.

**Comment**

Nothing in this rule prevents a local court from adopting an electronic filing request procedure provided the request is effectively communicated to the listed persons.

Within the framework of these rules, the particular methods and logistics for receiving and accounting for costs is left to the discretion of the president judge and district court administration. Note, however, that deposit checks and final payment checks are to be made payable to the judicial district or county, not to the individual court reporter or transcriptionist preparing the transcript.

**Rule 4008. Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof.**

(A) *Costs*

(1) The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for an electronic transcript shall not exceed:

(a) for an ordinary transcript, \$2.25 per page;

(b) for an expedited transcript, \$3.25 per page; and

(c) for a daily transcript, \$4.25 per page.

(2) When the transcript is prepared in bound paper format, the costs shall be in accordance with paragraph (1) relating to electronic format plus a surcharge of \$0.25 per page.

**Comment**

The rules encourage the use of electronic transcripts which will result in reduced costs for preparing and distributing transcripts. No-cost, user-friendly software is available for converting text files into PDF format (see Rule 4010(B)). Unlike paper transcripts, electronic transcripts can offer features such as keyword searches, copy and paste functions, and speedy transmission. Moreover, the ability to store transcripts and reporters' notes on disks and networks should greatly reduce the courts' storage costs. Electronic systems support the business trend of moving toward paperless operations and also respond to ecological concerns by reducing paper waste.

Many judges prefer to read paper transcripts, including condensed transcripts, and these rules do not inhibit the practice. However, when a condensed paper transcript is ordered by a party, the surcharge of \$0.25 per page in Rule 4008(A)(2) shall refer to \$0.25 per sheet of paper, regardless of the number of pages of transcript on the sheet.

**(B) Economic hardship—minimum standards**

(1) Transcript costs for ordinary transcripts shall be waived for a litigant who has been permitted by the court to proceed *in forma pauperis* or whose income is below the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

(2) Transcript costs for ordinary transcripts shall be reduced by one-half for a litigant whose income is less than 200 percent of poverty as defined by the HHS poverty guidelines for the current year.

(3) The court shall advise litigants of the procedure for requesting a waiver or reduction of costs.

**Comment**

Transcript costs can be quite expensive. By establishing minimum standards, subdivision (B) is intended to ensure that costs do not effectively deny access to the court system to impoverished persons and persons of limited financial means when further proceedings necessitate a transcript. Procedures for waiving or reducing transcripts costs must be published by the court and clearly communicated to litigants.

**(C) Assignment and allocation of transcript costs**

(1) *Assignment of costs.* The requesting party, or party required by general rule to file a transcript, shall be responsible for the cost of the transcript. Costs shall not be assessed against any party for transcripts prepared at the initiation of the court.

(2) *Allocation of costs.* When more than one party requests the transcript, or are required by general rule to file the transcript, the cost shall be divided equally among the parties.

**(D) Copies of transcript**

(1) An electronic copy of the transcript shall be provided without charge to all parties other than the requesting party. A paper copy may be purchased at the surcharge rate specified in Rule 4008(A)(2).

(2) The cost of copies prepared for the court or filing office are included in the costs set forth in Rule 4008(A) and shall not be charged to any party.

(3) The cost charged to the public for a copy of a transcript that has been filed of record shall not exceed \$0.25 per page.

**Comment**

As no additional effort is needed to produce a copy of an electronic transcript, no copy charges may be levied upon the parties. With respect to a non-party (i.e., general public) request for a photocopy of a transcript, Rule 4007(D)(4) anticipates that the filing offices of the judicial district are the proper custodians of court case records and transcripts. Rule 4008(D)(3) provides that the cost charged to the public for a transcript copy that has been filed of record shall not exceed \$0.25 per page, regardless of the form or location in which the transcript is filed or stored. At this time, the rules do not require the sale of electronic transcripts to the public.

**(E) Additional Costs**

No transcript or related costs may be charged to the parties or the public other than those listed in subdivisions (A), (B) and (D) without the written approval of the Court Administrator.

**(F) Requests for Rate Increases**

The president judge of a judicial district may request an increase in the rates prescribed in subdivision (A) by submitting a written request to the Committee on Court Reporting and Transcripts. The request shall only be approved where it is established that the judicial district faces an economic hardship caused by the current rates and that the requested rates are reasonable. If the Committee approves the request by majority vote, it shall be forwarded to the Court Administrator for review. If the Court Administrator determines that the increase is necessary, the request shall be forwarded to the Supreme Court.

**Rule 4009. Fees Payable to the Court Reporter or Transcriptionist by the Judicial District. Local Rule.**

Each judicial district shall promulgate and publish a local rule establishing the fees to be paid to court reporters and transcriptionists for all court reporting products.

**Official Note:** For rules governing the promulgation of local rules, see Pa.R.J.A. No. 103(c).

**Comment**

By local rule, each judicial district shall set forth a comprehensive schedule of fees to be paid to court reporting personnel for all transcript products. While the maximum costs that may be charged to litigants or the public is fixed by Rule 4008, and may not be exceeded, a judicial district has the discretion to pay court reporters and transcriptionists a differing amount. In sum, these rules provide that litigants pay the transcript costs to the court according to the statewide schedule set forth in Rule 4008. The court, in turn, pays transcript fees to the court reporting personnel according to the fee schedule set by the judicial district.

The fee schedule of a judicial district must specify the fees that court reporters and transcriptionists are paid for both transcripts requested by litigants and transcripts requested by the Commonwealth or a subdivision thereof. Therefore, at a minimum, the local rule required in Rule 4009 must include the fees payable to court reporters and transcriptionists for (1) private-party transcripts, (2) transcripts ordered by governmental entities, (3) indigency and economic hardship cases, and (4) accelerated delivery surcharges.

**Rule 4010. Format of Transcript.**

(A) The format of paper transcripts shall be as follows:

(1) *Size.* Paper size shall be 8 1/2 x 11 inches.

(2) *Paper.* Paper shall be opaque, white, archival quality paper, at least 13 pounds for both originals and copies.

(3) *Preprinted Marginal Lines.* Pages shall contain preprinted solid left and right marginal lines. Preprinted top and bottom marginal lines are optional.

(4) *Line Numbers.* Each page shall bear numbers indicating each line of transcription on the page.

(5) *Number of Lines per Page.* Each page shall contain 25 lines of text. The last page may contain fewer lines if it is less than a full page of transcription. Page numbers or notations (e.g., page headers) shall not be considered part of the 25 lines of text.

(6) *Margins.* Typing shall begin on each page at the 1 3/4 inch left margin and continue to the 3/8 inch right margin.

(7) *Type Size.* The letter character size is to be 12 point with 10 letters to the inch. This type size provides for approximately 63 characters to each line. Courier 12 point type is recommended.

(8) *Spacing.* Lines of text shall be double spaced.

(9) *Indentations.*

(a) *Q and A.* All “Q” and “A” designations shall begin at the left margin. The statement following the “Q” and “A” shall begin on the fifth space from the left margin. Subsequent lines shall begin at the left margin. Since depositions read at a trial have the same effect as oral testimony, the indentations for “Q” and “A” should be the same as described above. In the transcript, each question and answer read should be preceded by a quotation mark. At the conclusion of the reading, a closing quotation mark should be used.

(b) *Colloquy.* Speaker identification shall begin on the tenth space from the left margin followed directly by a colon. The statement shall begin on the third space after the colon. Subsequent lines shall begin at the left margin.

(c) *Quotations.* Quoted material other than depositions shall begin on the tenth space from the left margin, with additional quoted lines beginning at the tenth space from the left margin, with appropriate quotation marks used.

(d) *Interruptions of Speech and Simultaneous Discussions.* Interruptions of speech shall be denoted by the use of a dash at the point of interruption, and again at the point the speaker resumes speaking.

(e) *Page Heading (also known as “Headers”).* A page heading is brief descriptive information noted to aid in locating a person and/or event in a transcript. Page headings shall appear above line 1 on the same line as the page number. This information shall not to be counted as a line of transcript.

(f) *Parentheses.* Parenthetical notations shall be marked by parentheses. They shall begin with an open parenthesis on the fifth space from the left margin, with the remark beginning on the sixth space from the left margin. Parentheses are used for customary introductory statements such as call to order of court or swearing in a witness. Parentheses are also used for indicating non-verbal behavior, pauses, and readback/playback.

(B) Electronic transcripts shall comply with the format standards set forth in Rule 4010(A)(3) through (9) for paper transcripts and, in addition, shall be in PDF format with the following settings:

(1) *functions disabled:* content changes

(2) *functions enabled:* search, select, copy, paste and print.

#### Comment

Rule 4010 standards for both paper and electronic transcripts, which closely follow federal court standards, assure that all transcripts of proceedings before the Pennsylvania courts are formatted in the same way, whether prepared by official court reporters or transcriptionists, contract or per diem personnel, or by transcription companies.

#### Rule 4011. Deadline for Delivery of Transcript.

(A) The court reporter or transcriptionist shall deliver the transcript within 30 calendar days of receiving notice to prepare the transcript as provided by Rule 4007, unless an accelerated timeframe is mandated by law. The court reporter or transcriptionist, upon a showing of good cause to the president judge or his or her designee, may request an extension of the deadline for a period of time not to exceed an additional 30 days. In no case shall more than one extension be granted.

(B) Transcripts prepared pursuant to the Children’s Fast Track Appeal program shall be given priority.

**Official Note:** For rules governing children’s fast track appeals, see Pa.R.A.P. 102 *et seq.*

#### Rule 4012. Sanctions for Delayed Transcript.

(A) The president judge may take disciplinary action, including reassignment, reduction of fees, contempt of court, or decertification against any court reporter, court recorder, or transcriptionist who impedes the prompt administration of justice, whether by protracted delinquency in a single case or by engaging in a pattern of delinquency in a number of cases.

(B) The failure of a court reporter or transcriptionist to complete the notes within the time imposed by these rules or by court order, which delays transmission of the complete record to the appellate court, interferes with the reviewing court’s proceedings. The appellate court may enter an order to compel the preparation, filing and transmission of the notes and may take disciplinary action including contempt of court or reduction of fees.

(C) A district court administrator or his or her designee may cause a transcript to be prepared by another court reporter or transcriptionist from notes in the event of the inability, unavailability, or unwillingness of the individual who took the notes to do so within the time ordered by the court.

(D) The Court Administrator shall notify the Supreme Court of Pennsylvania of instances of unreasonable delay in preparing transcripts. The Court Administrator may recommend imposition of sanctions, including decertification of individual court reporters or transcriptionists.

(E) The president judge shall ensure that the number, proficiency and organization of court reporting personnel in any district are adequate to support the full and unrestricted operation of the courts. When transcript delay is caused by an insufficient supply of qualified court reporters or other staff resources, or inefficient management of the court reporting operation, the Supreme Court may direct the president judge to take immediate corrective actions.

#### Rule 4013. Certification of Transcript.

Court reporting personnel who take the notes, record or transcribe a proceeding shall certify that the transcript of

proceedings is true and correct and meets the format specifications established by the Supreme Court of Pennsylvania in Rule 4010. When more than one person was engaged in the production of the transcript, each shall certify as to his or her contribution.

**Rule 4014. Redaction of Personal Data Identifiers.**

(A) On its own motion, or upon motion of any party, the court may order the court reporter or transcriptionist preparing the transcript to redact the following personal data identifiers:

- (1) Social Security numbers;
- (2) financial institution account identifiers;
- (3) dates of birth;
- (4) names of minor children;
- (5) home addresses and telephone numbers; and
- (6) other identifiers as privacy and security may require.

(B) Information that is redacted shall, unless otherwise directed by the court, appear in transcripts that are provided to the court and to the parties, but not in any transcript filed in the appropriate filing office or provided to any other requestor.

**Rule 4015. Ownership of Notes.**

Notes of testimony of court proceedings, stenographic notes, tapes, rough draft transcripts or other media used by court reporting personnel to record or monitor a proceeding in or for a court as well as any transcriptions thereof, are the exclusive property of the judicial district.

**Comment**

Nothing in these rules prohibits someone who has lawfully obtained a transcript from making a copy.

**Rule 4016. Storage and Retention.**

(A) Each judicial district shall make provision for the archiving, storage and retention of transcribed and untranscribed notes of testimony, rough draft transcripts, reporter and recorder log notes, tapes, other electronic or digital audio files, and any hardware, software, tools or dictionaries necessary for proper transcription.

(B) Notes of testimony and other materials specified in subdivision (A) shall be retained in compliance with the *Record Retention and Disposition Schedule with Guidelines* adopted by the Supreme Court.

**Comment**

Each judicial district is responsible for the preservation of the transcript production materials listed in Rule 4016(A) in a form that guarantees their accuracy, authenticity, and accessibility. These materials must be protected from loss arising from personnel turnover in the court, environmental hazards, or unsecured access.

Exhibits admitted into evidence are part of the court record and must be maintained with the official court record in the appropriate filing office. Excluded here are drugs, weapons, and other dangerous materials kept in secure locations by law enforcement for production on appeal or for a new trial, or pending forfeiture or destruction order of the court. Original materials shall not be maintained in the personal files of court reporting personnel.

CHAPTER 50. [ UNIFORM RULES GOVERNING  
COURT REPORTING AND TRANSCRIPTS ]  
(Reserved)

**Rules 5000.1—5000.13. (Reserved).**

[Pa.B. Doc. No. 14-2609. Filed for public inspection December 19, 2014, 9:00 a.m.]

**Title 210—APPELLATE  
PROCEDURE**

**PART I. RULES OF APPELLATE PROCEDURE**

[ 210 PA. CODE CH. 15 ]

**Order Amending Rule 1513 of the Rules of Appellate Procedure; No. 250 Appellate Procedural Rules Doc.**

**Order**

*Per Curiam*

*And Now*, this 2nd day of December, 2014, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been published before adoption at 44 Pa.B. 2052 (April 5, 2014):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Appellate Procedure 1513 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and the amendment herein shall be effective in 30 days.

**Annex A**

**TITLE 210. APPELLATE PROCEDURE**

**PART I. RULES OF APPELLATE PROCEDURE**

**ARTICLE II. APPELLATE PROCEDURE**

**CHAPTER 15. JUDICIAL REVIEW OF  
GOVERNMENTAL DETERMINATIONS**

**PETITION FOR REVIEW**

**Rule 1513. Petition for Review.**

(a) *Caption and parties on appeal.* In an appellate jurisdiction petition for review, the aggrieved party or person shall be named as the petitioner and, unless the government unit is disinterested, the government unit and no one else shall be named as the respondent. If the government unit is disinterested, all real parties in interest, and not the government unit, shall be named as respondents.

(b) *Caption and parties in original jurisdiction actions.* The government unit and any other indispensable party shall be named as respondents. Where a public act or duty is required to be performed by a government unit, it is sufficient to name the government unit, and not its individual members, as respondent.

(c) *Form.* Any petition for review shall be divided into consecutively numbered paragraphs. Each paragraph shall contain, as nearly as possible, a single allegation of fact or other statement. When petitioner seeks review of an order refusing to certify an interlocutory order for immediate appeal, numbered paragraphs need not be used.

(d) *Content of appellate jurisdiction petition for review.* An appellate jurisdiction petition for review shall contain:

[ (1) ] 1. a statement of the basis for the jurisdiction of the court;

[ (2) ] 2. the name of the party or person seeking review;

[ (3) ] 3. the name of the government unit that made the order or other determination sought to be reviewed;

[ (4) ] 4. reference to the order or other determination sought to be reviewed, including the date the order or other determination was entered;

[ (5) ] 5. a general statement of the objections to the order or other determination[ ; and ], **but the omission of an issue from the statement shall not be the basis for a finding of waiver if the court is able to address the issue based on the certified record;**

[ (6) ] 6. a short statement of the relief sought[ . A ]; **and**

7. a copy of the order or other determination to be reviewed, **which** shall be attached to the petition for review as an exhibit. **[ The statement of objections will be deemed to include every subsidiary question fairly comprised therein. ]**

No notice to plead or verification is necessary.

Where there were other parties to the proceedings conducted by the government unit, and such parties are not named in the caption of the petition for review, the petition for review shall also contain a notice to participate, which shall provide substantially as follows:

If you intend to participate in this proceeding in the (Supreme, Superior or Commonwealth, as appropriate) Court, you must serve and file a notice of intervention under [ Rule ] Pa.R.A.P. 1531 of the Pennsylvania Rules of Appellate Procedure within 30 days.

(e) *Content of original jurisdiction petition for review.* A petition for review addressed to an appellate court's original jurisdiction shall contain:

[ (1) ] 1. a statement of the basis for the jurisdiction of the court;

[ (2) ] 2. the name of the person or party seeking relief;

[ (3) ] 3. the name of the government unit whose action or inaction is in issue and any other indispensable party;

[ (4) ] 4. a general statement of the material facts upon which the cause of action is based [ and ];

[ (5) ] 5. a short statement of the relief sought [ . It shall also contain ]; **and**

6. a notice to plead and [ be verified ] verification either by oath or affirmation or by verified statement.

(f) *Alternative objections.* Objections to a determination of a government unit and the related relief sought may be stated in the alternative, and relief of several different types may be requested.

**Official Note:** The 2004 amendments to this rule clarify what must be included in a petition for review addressed to an appellate court's appellate jurisdiction and what must be included in a petition for review

addressed to an appellate court's original jurisdiction. Where it is not readily apparent whether a "determination" (defined in [ Rule ] Pa.R.A.P. 102 as "[a]ction or inaction [ of ] by a government unit") is reviewable in the court's appellate or original jurisdiction, compliance with the requirements of [ Subdivisions ] paragraphs (d) and (e) is appropriate.

[ Subdivisions ] Paragraphs (a) and (b) reflect the provisions of [ Rule 501 (Any Aggrieved Party May Appeal), Rule 503 (Description of Public Officers) ] Pa.R.A.P. 501, Pa.R.A.P. 503, Section 702 of the Administrative Agency Law, 2 Pa.C.S. § 702 (Appeals), and Pa.R.C.P. No. 1094 (regarding parties defendant in mandamus actions).

Government units that are usually disinterested in appellate jurisdiction petitions for review of their determinations include:

- the Board of Claims,
- the Department of Education (with regard to teacher tenure appeals from local school districts pursuant to section 1132 of the Public School Code of 1949, 24 P. S. § 11-1132),
- the Environmental Hearing Board,
- the State Charter School Appeal Board,
- the State Civil Service Commission, and
- the Workers' Compensation Appeal Board.

The provision for joinder of indispensable parties in original jurisdiction actions reflects the last sentence of section 761(c) of the Judicial Code, 42 Pa.C.S. § 761(c), providing for the implementation of ancillary jurisdiction of the Commonwealth Court by general rule.

[ Subdivisions ] Paragraphs (d) and (e) reflect the differences in proceeding in a court's original and appellate jurisdiction, while preserving the need for sufficient specificity to permit the conversion of an appellate document to an original jurisdiction pleading and vice versa should such action be necessary to assure proper judicial disposition. See also the notes to [ Rules ] Pa.R.A.P. 1501 and 1502. **[ The paragraph regarding the notice to participate was formerly found in Rule 1514(c). ]**

#### Explanatory Comment—1979

**The note is expanded to reflect the fact that the Department of Education does not defend its decisions in teacher tenure appeals from local school districts.**

#### Explanatory Comment—2011

**With respect to the general statement of objections in an appellate jurisdiction petition for review required in subdivision (d)(5), see *Maher v. Unemployment Comp. Bd. of Review*, 983 A.2d 1264, 1266 (Pa. Cmwlth. 2009). ]**

#### Official Note—2014

**The 2014 amendments to Pa.R.A.P. 1513(d) relating to the general statement of objections in an appellate jurisdiction petition for review are intended to preclude a finding of waiver if the court is able, based on the certified record, to address an issue not within the issues stated in the petition for review but included in the statement of questions involved and argued in a brief. The amendment neither expands the scope of issues that may be**

addressed in an appellate jurisdiction petition for review beyond those permitted in Pa.R.A.P. 1551(a) nor affects Pa.R.A.P. 2116's requirement that "[ n ] o question will be considered unless it is stated in the statement of questions involved [ in appellant's brief ] or is fairly suggested thereby."

[Pa.B. Doc. No. 14-2610. Filed for public inspection December 19, 2014, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

[ 234 PA. CODE CH. 5 ]

### Order Amending Rules 528 and 535 of the Rules of Criminal Procedure; No. 457 Criminal Procedural Rules Doc.

#### Order

#### *Per Curiam*

And Now, this 8th day of December, 2014, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 42 Pa.B. 6252 (October 6, 2012) and 44 Pa.B. 778 (February 8, 2014), in the *Atlantic Reporter* (Third Series Advance Sheets, Vol. 81), and a Final Report to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the amendments to Pennsylvania Rules of Criminal Procedure 528 and 535 are adopted in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective February 9, 2015.

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

#### PART C(1). Release Procedures

#### Rule 528. Monetary Condition of Release on Bail.

(A) If the bail authority determines that it is necessary to impose a monetary condition of bail, to determine the amount of the monetary condition, the bail authority shall consider:

- (1) the release criteria set forth in Rule 523; and
- (2) the financial ability of the defendant.

(B) The amount of the monetary condition shall be reasonable.

(C) After determining the amount of the monetary condition, the bail authority may permit the deposit of a sum of money not to exceed [ 10 ] 10% of the full amount of the monetary condition if he or she determines that such a deposit is sufficient to ensure the defendant's appearance and compliance.

(D) One or a combination of the following forms of security shall be accepted to satisfy the full amount of the monetary condition:

- (1) Cash or when permitted by the local court a cash equivalent.

(2) Bearer bonds of the United States Government, of the Commonwealth of Pennsylvania, or of any political subdivision of the Commonwealth, in the full amount of the monetary condition, provided that the defendant or the surety files with the bearer bond a sworn schedule which shall verify the value and marketability of such bonds, and which shall be approved by the bail authority.

(3) Realty located anywhere within the Commonwealth, including realty of the defendant, as long as the actual net value is at least equal to the full amount of the monetary condition. The actual net value of the property may be established by considering, for example, the cost, encumbrances, and assessed value, or another valuation formula provided by statute, ordinance, or local rule of court. Realty held in joint tenancy or tenancy by the entirety may be accepted provided all joint tenants or tenants by the entirety execute the bond.

(4) Realty located anywhere outside of the Commonwealth but within the United States, provided that the person(s) posting such realty shall comply with all reasonable conditions designed to perfect the lien of the county in which the prosecution is pending.

(5) The surety bond of a professional bondsman licensed under the Judicial Code, 42 Pa.C.S. §§ 5741—5749, or of a surety company authorized to do business in the Commonwealth of Pennsylvania.

(E) The bail authority shall record on the bail bond the amount of the monetary condition imposed and the form of security that is posted by the defendant or by an individual acting on behalf of the defendant or acting as a surety for the defendant.

**(F) Except as limited in Rule 531, the defendant or another person may deposit the cash percentage of the bail. If the defendant posts the money, the defendant shall sign the bond, thereby becoming his or her own surety, and is liable for the full amount of bail if he or she fails to appear or to comply. When a person other than the defendant deposits the cash percentage of the bail, the clerk of courts or issuing authority shall explain and provide written notice to that person that:**

1) if the person agrees to act as a surety and signs the bail bond with the defendant, the person shall be liable for the full amount of bail if the defendant fails to appear or comply; or

2) if the person does not wish to be liable for the full amount of bail, the person shall be permitted to deposit the money for the defendant to post, and will relinquish the right to make a subsequent claim for the return of the money pursuant to these rules. In this case, the defendant would be deemed the depositor, and only the defendant would sign the bond and be liable for the full amount of bail.

3) Pursuant to Rule 535(E), if the bail was deposited by or on behalf of the defendant and the defendant is the named depositor, the amount otherwise returnable to the defendant may be used to pay and satisfy any outstanding restitution, fees, fines, and costs owed by the defendant as a result of a sentence imposed in the court case for which the deposit is being made.

#### Comment

Nothing in this rule precludes the bail authority from releasing the defendant on an unsecured bail bond whereby the defendant, upon executing the bail bond, binds himself or herself to be liable for an amount of

money in the event the defendant fails to appear or to comply with the conditions of the bail bond. Although this is a monetary condition, no actual security or money is deposited as a condition of the release. *See* Rule 524(C)(3) for the definition of unsecured bail bond.

The bail authority may impose a monetary condition in addition to nonmonetary conditions if a combination of such conditions is necessary to reasonably ensure the defendant's appearance and compliance. For example, a defendant could be released conditioned upon posting a certain amount of money and subject to the supervision of a designated probation department or bail agency, or a designated person or private organization. The supervisor would maintain close contact with the defendant, assist the defendant in making arrangements to appear in court, and, if appropriate, accompany the defendant to court. In addition, the bail authority could require that the supervisor also be a surety for the full amount of the monetary condition so that the supervisor would be financially responsible if the defendant failed to appear.

Paragraph (C) requires that in all cases, the bail authority must consider whether a defendant should be permitted to deposit a percentage of the cash bail.

Nothing in this rule changes the practice of permitting the judicial districts to require by local rule the use of percentage cash bail.

When the bail authority determines that it is appropriate to accept a percentage of the cash bail, the defendant, or an individual acting on behalf of the defendant or acting as a surety for the defendant, may make the deposit with the clerk of courts or the issuing authority. *See* Rule 535.

When the bail authority authorizes the deposit of a percentage of the cash bail, the defendant may satisfy the monetary condition by depositing, or having an individual acting as a surety on behalf of the defendant deposit, the full amount of the monetary condition. For example, there may be cases in which the defendant does not have the cash to satisfy the percentage cash bail, but has some other form of security, such as realty. In such a case, the defendant must be permitted to execute a bail bond for the full amount of the monetary condition and deposit one of the forms or a combination of the forms set forth in paragraph (D).

If a percentage of the cash bail is accepted pursuant to these rules, when the funds are returned at the conclusion of the defendant's bail period, the court or bail agency may retain as a fee an amount reasonably related to the cost of administering the cash bail program. *See Schilb v. Kuebel*, 404 U.S. 357 (1971).

**[ Except as limited in Rule 531 (Qualification of Surety), the defendant or another person, such as a relative or neighbor, may deposit the cash percentage of the bail. If the defendant posts the money, the defendant must sign the bond, thereby becoming his or her own surety, and is liable for the full amount of bail if he or she fails to appear or to comply. When someone other than the defendant deposits the cash percentage of the bail, the clerk of courts or issuing authority must explain to that person that:**

**1) if the person agrees to act as a surety and signs the bail bond with the defendant, the person will be liable for the full amount of bail if the defendant fails to appear or comply; or**

**2) if the person does not wish to be liable for the full amount of bail, the person will be permitted to deposit the money for the defendant to post, and will relinquish the right to make a subsequent claim for the return of the money pursuant to these rules. In this case, the defendant would be deemed the depositor, and only the defendant would sign the bond and be liable for the full amount of bail. *See* Rule 535. ]**

**Paragraph (F), which formerly was included in the Comment, was added to the rule in 2014 to clarify the manner in which the defendant or a third party may act as a surety for the defendant's bond. The rule now requires that written notice be given to the person posting the bail, especially a third party, of the possible consequences if the defendant receives a sentence that includes restitution, a fine, fees, and costs. *See also* Rule 535 for the procedures for retaining bail money for satisfaction of outstanding restitution, fines, fees, and costs.**

The defendant must be permitted to substitute the form(s) of security deposited as provided in Rule 532.

The method of valuation when realty is offered to satisfy the monetary condition pursuant to paragraphs (D)(3) and (D)(4) is determined at the local level. If no satisfactory basis exists for valuing particular tracts of offered realty, especially tracts located in remote areas, acceptance of that realty is not required by this rule.

**Official Note:** Former Rule 4007 adopted July 23, 1973, effective 60 days hence, replacing prior Rule 4013; amended January 28, 1983, effective July 1, 1983; rescinded September 13, 1995, effective January 1, 1996, and replaced by Rule 4011. Present Rule 4007 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 528 and amended March 1, 2000, effective April 1, 2001; amended September 21, 2012, effective November 1, 2012; **amended December 8, 2014, effective February 9, 2015.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the December 8, 2014 amendment providing for the advice required to be given concerning possible forfeiture of the deposit published with the Court's Order 44 Pa.B. 7833 (December 20, 2014).**

#### **PART C(2). General Procedures in all Bail Cases**

**Rule 535. Receipt for Deposit; Return or Retention of Deposit.**

(A) Any deposit of cash in satisfaction of a monetary condition of bail shall be given to the issuing authority, the clerk of courts, or another official designated by the president judge by local rule pursuant to Rule 117(C). The issuing authority, clerk, or other official who accepts the deposit shall give the depositor an itemized receipt, and shall note on the bail bond the amount deposited and the name of the person who made the deposit. The defendant shall sign the bail bond, and be given a copy of the signed bail bond.

(1) When the issuing authority accepts a deposit of bail, the issuing authority shall note on the docket transcript the amount deposited and the name of the



person who made the deposit. The issuing authority shall have the deposit, the docket transcript, and a copy of the bail bond delivered to the clerk of courts.

(2) When another official is designated by the president judge to accept a bail deposit, that official shall deliver the deposit and the bail bond to either the issuing authority, who shall proceed as provided in paragraph (A)(1), or the clerk of courts, who shall proceed as provided in paragraph (A)(3).

(3) When the clerk of courts accepts the deposit, the clerk shall note in the list of docket entries the amount deposited and the name of the person who made the deposit, and shall place the bail bond in the criminal case file.

**[ (4) At the time bail is being deposited, no inquiry shall be made of the depositor whether he or she consents to have the deposit retained to be applied toward the defendant's fines, costs, or restitution, if any. ]**

(B) When the deposit is the percentage cash bail authorized by Rule 528, the depositor shall be notified that by signing the bail bond, the depositor becomes a surety for the defendant and is liable for the full amount of the monetary condition in the event the defendant fails to appear or comply as required by these rules **and that, if the defendant is the named depositor, the amount otherwise returnable may be used to pay and satisfy any outstanding restitution, fees, fines, and costs owed by the defendant as a result of a sentence imposed in the court case for which the deposit is being made.**

(C) The clerk of courts shall place all cash bail deposits in a bank or other depository approved by the court and shall keep records of all deposits.

(D) **[ Within ] Unless a motion is filed pursuant to paragraph (E), within 20 days of the full and final disposition of the case, the deposit shall be returned to the depositor, less any bail-related fees or commissions authorized by law, and the reasonable costs, if any, of administering the percentage cash bail program.**

(E) **In any case in which the defendant is the named depositor, upon the full and final disposition of the case, the court may order, upon motion of the attorney for the Commonwealth, that any money deposited pursuant to this rule by or on behalf of the defendant that is otherwise returnable to the defendant be held and applied to the payment of any restitution, fees, fines, and costs imposed upon the defendant in the case for which the deposit had been made, unless the defendant shows that he or she would suffer an undue hardship.**

**[ (E) ] (F)** When a case is transferred pursuant to Rule 130(B) or Rule 555, the full deposit shall be promptly forwarded to the transfer judicial district, together with any bail-related fees, commissions, or costs paid by the depositor.

#### Comment

When the president judge has designated another official to accept the bail deposit as provided in Rule 117, the other official's authority under Rule 117 and this rule is limited to accepting the deposit, having the defendant sign the bail bond, releasing the defendant, and deliver-

ing the bail deposit and bail bond to the issuing authority or the clerk of courts.

**[ Paragraph (A) was amended in 2006 to make it clear that the clerk of courts or other official accepting a deposit of cash bail is not permitted to request that the depositor agree to have the cash bail deposit retained after the full and final disposition of the case to be applied toward the payment of the defendant's fines, costs, or restitution, if any. See, e.g., *Commonwealth v. McDonald*, 476 Pa. 217, 382 A.2d 124 (1978), which held that a deposit of cash to satisfy a defendant's monetary bail condition that is made by a person acting as a surety for the defendant may not be retained to pay for the defendant's court costs and/or fines. ]**

Paragraph (E) was added in 2014 to permit the attorney for the Commonwealth to seek, at the full and final disposition of any case in which the defendant is the named depositor of bail money, to have the deposited bail money applied to any restitution, fees, fines, and costs imposed on the defendant in the case for which the deposit had been made. This new provision, adopted pursuant to the authority granted in 42 Pa.C.S. § 5702, is a procedural mechanism by which the court may retain money previously deposited with the court to satisfy the defendant's obligations but only in the current criminal case. This procedure also secures the right of the defendant to proffer reasons why retention of the bail money would be an undue hardship. See *Commonwealth v. McDonald*, 382 A.2d 124 (Pa. 1978).

The procedure stated in this rule is the only procedure by which bail may be retained to pay for assessments imposed on the defendant. Any local practice that permits the retention of bail other than as provided in this rule is inconsistent with the statewide rules and subject to the provisions in Rule 105(B).

For the manner of distribution of any funds applied to the outstanding restitution, fees, fines, and costs owed by the defendant, see the Pennsylvania Supreme Court's Uniform Disbursement Schedule, *In Re: Promulgation of Financial Regulations Pursuant to Act 49 of 2009* (42 Pa.C.S. §§ 3733(A.1) and 3733.1), No. 335 Judicial Administration Docket (October 29, 2009), 204 Pa. Code § 29.353.

The procedures in paragraph (E) contemplate the decision to retain the bail to be made at the court of common pleas. There may be court cases in which bail had been set that are resolved at the magisterial district court, for example, in cases in which a plea agreement is entered to withdraw misdemeanor or felony charges in exchange for a plea to summary charges or misdemeanor charges within the jurisdiction of the magisterial district judge. In such cases, the magisterial district judge may not order the retention of bail money where the defendant is the named depositor for the payment of assessments unless the Commonwealth and the defendant agree.

**Any order issued pursuant to paragraph (E) shall be in conformance with Rule 114.**

Given the complexities of posting real estate to satisfy a monetary condition of release, posting of real estate may not be feasible outside the normal business hours.

Paragraph (B) requires the issuing authority or the clerk of courts who accepts a percentage cash bail deposit to explain to the person who deposits the money the consequences of acting as a surety. There will be cases in which a person merely deposits the money for the defendant to post, and is not acting as the defendant's surety. In this situation, the defendant is the depositor and should receive the receipt pursuant to paragraph (A). See Rule 528. **See also Rule 528 for the notice the clerk of courts or issuing authority must provide when a person other than the defendant deposits the cash percentage of the bail.**

When cash bail that is deposited in a bank pursuant to paragraph (C) is retained by a county in an interest-bearing account, case law provides that the county retains the earned interest. See *Crum v. Burd*, [ 131 Pa.Cmwlth. 550, ] 571 A.2d 1 (Pa.Cmwlth. 1989), *allocatur* denied [ 525 Pa. 649, ] 581 A.2d 574 (Pa. 1990).

The full and final disposition of a case includes all avenues of direct appeal in the state courts. Therefore, the return of any deposits would not be required until after either the expiration of the appeal period or, if an appeal is taken, after disposition of the appeal. See Rule 534.

Any fees, commissions, or costs assessed pursuant to paragraph (D) must be reasonably related to the county's actual bail administration costs. Each county should establish local procedures to ensure adequate notice and uniform application of such fees, commissions, or costs. See, e.g., *Buckland v. County of Montgomery*, 812 F.2d 146 (3rd Cir. 1987).

When a case is transferred pursuant to Rules 130(B) and 555, paragraph [ (E) ] (F) and Rules 130(B) and 555 require that any bail-related fees, commissions, or costs collected pursuant to paragraph (D) be forwarded to the transfer judicial district. Fees, commissions, or costs that have been assessed but not paid at the time of transfer may not be collected in the transferring judicial district.

When bail is terminated upon acceptance of the defendant into an ARD program, such action constitutes a "full and final disposition" for purposes of this rule and Rule 534 (Duration of Obligation). See Rule 313.

**Official Note:** Former Rule 4015, previously Rule 4009, adopted November 22, 1965, effective June 1, 1966; renumbered Rule 4015, former paragraph (b) integrated into paragraph (a) and new paragraph (b) adopted July 23, 1973, effective 60 days hence; rescinded September 13, 1995, effective January 1, 1996, and replaced by present Rule 4015. Present Rule 4015 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 535 and amended March 1, 2000, effective April 1, 2001; amended April 20, 2000, effective July 1, 2000; amended March 3, 2004, effective July 1, 2004; amended June 30, 2005, effective August 1, 2006; amended March 9, 2006, effective August 1, 2006; **amended December 8, 2014, effective February 9, 2015.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the December 8, 2014 changes concerning defendant's deposits of bail to be applied to restitution, fees, fines, and costs in the current case published with the Court's Order 44 Pa.B. 7833 (December 20, 2014).**

#### FINAL REPORT<sup>1</sup>

#### *Proposed Amendments to Pa.Rs.Crim.P. 528 and 535* **Use of Bail Money for Payment of Restitution, Fees, Fines, and Costs**

On December 8, 2014, effective February 9, 2015, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule 528 (Monetary Condition for Release of Bail) and Rule 535 (Receipt for Deposit; Return of Deposit) to provide (1) procedures for applying bail monies that would be returnable to the defendant after full and final disposition of the case to the defendant's outstanding restitution, court fees, fine, and costs in the current case and (2) notice to depositors to warn of the possibility of the loss of security deposited.

The Committee had examined procedures that would permit retention of a defendant's bail money that otherwise would be returnable to the defendant after full and final disposition of the case in order for it to be applied to the defendant's outstanding restitution, court fees, fine, and costs. The Rules of Criminal Procedure traditionally have precluded directly applying bail money in this manner, based on the concept that the purpose of bail is to ensure the presence of the defendant during the pendency of the case and not to obtain a "deposit" on future assessments. However, the Committee concluded that a change that would permit the retention of returnable bail money to satisfy a defendant's existing obligations to the court is a valid exercise of the rule-making authority. In addition, such a change is a potentially useful tool for the more efficient collection of owed moneys, including restitution, reducing collection costs for the court and even for the defendant who would otherwise face additional costs where the court is forced to seek collections processes.

In reaching this conclusion, the first question that the Committee had considered was whether distribution of bail money in this manner fell within the purview of the Rules of Criminal Procedures. As part of this review, the Committee examined the current law in Pennsylvania on the return of bail, as well as the practice in other jurisdictions with regard to this question.

Under the common law, the purpose of bail was to ensure the appearance of the defendant and courts did not have the inherent power to apply bail money for another purpose. In terms of constitutional concerns, the Eight Amendment of U.S. Constitution prohibits excessive bail. A U.S. Supreme Court case, *Cohen v. United States*, 7 L.Ed. 518, 82 S.Ct. 526 (1962), held that conditioning bail on the payment of a fine is excessive and in violation of the Eighth Amendment.

Several decades after the *Cohen* decision, a federal statute, 28 U.S.C. § 2044, was adopted that permitted the use of deposited bail money to be applied to a defendant's costs, fines, restitution and other assessments. Constitutional challenges to this provision have been rejected because, unlike the *Cohen* case, Section 2044 does not precondition bail on the payment of any fine but rather is a procedural mechanism by which the court, after the defendant has appeared and the purpose

<sup>1</sup> The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

of bail has been served, may disburse deposited money to those with claims on the funds. See *United States v. Higgins*, 987 F.2d 543 (1993).

The Committee's research revealed that, in many states, courts have allowed the application of bail to fines or costs. Numerous states also have adopted statutes authorizing this practice. See, e.g., California Penal Code § 1297, Florida Statutes Annotated § 903.286, Illinois Compiled Statutes § 5/110-7(f), Minnesota Statutes Annotated § 629.53, Nevada Revised Statutes § 178.522, New York Criminal Procedure Law § 420.10(1)(e), Tennessee Code § 40-11-121, Wisconsin Statutes § 969.03(4). In instances where specific statutory authority existed, courts have been inclined to allow the application of the bail to fines or costs. For example, in *State v. Iglesias*, 185 Wis. 2d 118, 517 N.W.2d 175 (1990), cert. den. 513 U.S. 1045 (1994), the Wisconsin Supreme Court found that bail is not excessive if it is used for a purpose which the legislature has deemed to be a compelling state interest and the amount is not excessive relative to the interest sought to be furthered.

Rather uniquely, Pennsylvania's Bail Statute delegates all authority over bail to the Supreme Court through its rule-making authority. Section 5702 of the Judicial Code, 42 Pa.C.S. § 5702, provides:

Except as otherwise provided by this title and the laws relating to the regulation of surety companies, all matters relating to the fixing, posting, forfeiting, exoneration and distribution of bail and recognizances shall be governed by general rules.

While there are no Pennsylvania cases addressing the propriety of retaining returnable bail money for payment of fines, costs, or restitution, there have been a few cases that dealt with certain aspects of this issue, usually involving cases in which third parties were seeking the return of money they had posted on behalf of a defendant. For example, in *Commonwealth v. McDonald*, 476 Pa. 217, 382 A.2d 124 (1978), the Court held that the trial court erred in refusing to return the bail deposit after the defendant was taken into custody after allegedly committing a new offense, concluding that the bail was revoked when the defendant was placed in custody, and the trial court no longer had the authority to retain it. The Court specifically reserved judgment on the question of "whether and to what extent the Rules of Criminal Procedure allow bail deposits to be applied to the collection of fines imposed upon the defendant." FN. 5, 476 Pa. at 222, 382 A.2d. at 126.

Based on the foregoing analysis, the Committee initially developed a proposal, which was published for comment at 42 Pa.B. 6253 (October 6, 2012), that would have amended Rule 535 and revised the Comment to Rule 528 to permit the clerk of courts to automatically apply any bail monies that otherwise would be returnable to the defendant after full and final disposition of the case to any of the defendant's outstanding restitution, court fees, fines, costs, and bail judgments. The proposal would have been limited to only money that has been deposited by the defendant and would have permitted relief where its application would work a hardship on the defendant.

Following publication of this proposal, the Committee received further direction from the Supreme Court of Pennsylvania to narrow the scope of the proposal by requiring the prosecution to make a motion for holding deposited funds for payment of outstanding restitution, fees, fines, and costs assessed in the case for which the deposit had originally been made. Additionally, the ex-

emption for third party sureties and for cases in which the defendant would suffer an undue hardship were to be more explicitly stated and fuller notice be provided to the depositor of the potential loss of the deposit.

The amendments therefore now afford enhanced protection to third party depositors by requiring detailed notice that the bail authority must provide to depositors to warn them of the possibility of the loss of security deposited if they allow the defendant to be the named depositor. Rule 528 has been amended to move into the rule text the language currently in the Comment that describes the manner by which a depositor may be named and the consequences for a third party of allowing the defendant to be named depositor when the third party has supplied the bail money, including the possibility of the money being applied to assessments. This notice requirement is reiterated in Rule 535(B).

Additionally, a new paragraph (E) has been added to Rule 535 that establishes the procedures for retaining the bail money. A motion by the attorney for the Commonwealth is required before the bail money can be retained and can only be retained for the payment of assessments placed on the case for which the money had originally been deposited with the defendant being the named depositor. The paragraph also contains the exemption when the defendant shows that retention of the bail money would be a hardship.

Additionally, the current paragraph (A)(4) of Rule 535 that prohibits inquiring whether the defendant consents to applying deposited bail money towards fines, costs, etc. has been removed because the defendant's consent to having the bail money retained is no longer needed if the defendant was the named depositor and third party depositors are to be provided with more detailed notice of the potential consequences.

The Comment to Rule 535 has been revised to describe the rationale and basis for this change as well as cross-referencing the Court's Uniform Disbursement Schedule that details the manner in which the retained money would be dispersed. The Comment also states that the new procedures would not apply to cases before a magisterial district judge unless the parties agree.

There was a concern raised by the Committee that some counties may be retaining bail presently, despite being contrary to the rules, so language has been added in the Rule 535 Comment that any local practice that varies from that in Rule 535 is inconsistent with the statewide rules.

[Pa.B. Doc. No. 14-2611. Filed for public inspection December 19, 2014, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BUCKS COUNTY

#### Mortgage Foreclosure Diversion Program; Administrative Order No. 55

And Now, this 2nd day of December, 2014, Paragraph 7 of Bucks County Civil Division Administrative Order No. 55, promulgated on June 5, 2009, is hereby amended to read as follows:

7. This Order shall remain in effect until December 31, 2015, unless further extended by the Court.

This Amendment shall take effect thirty days from the date of publication in the *Pennsylvania Bulletin*.

*By the Court*

JEFFREY L. FINLEY,  
President Judge

[Pa.B. Doc. No. 14-2612. Filed for public inspection December 19, 2014, 9:00 a.m.]

## SUPREME COURT

### Reaccreditation of the National Elder Law Foundation as a Certifying Organization; No. 131 Disciplinary Rules Doc.

#### Order

*Per Curiam*

*And Now*, this 2nd day of December, 2014, upon the recommendation of the Pennsylvania Bar Association Review and Certifying Board, the National Elder Law Foundation is hereby reaccredited as a certifying organization in the area of Elder Law for a period of five years commencing January 26, 2015.

[Pa.B. Doc. No. 14-2613. Filed for public inspection December 19, 2014, 9:00 a.m.]

## SUPREME COURT

### Reestablishment of the Magisterial Districts within the 6th Judicial District; No. 378 Magisterial Rules Doc.

#### Order

*Per Curiam*

*And Now*, this 3rd day of December 2014, upon consideration of the Petition to Reestablish the Magisterial Districts of the 6th Judicial District (Erie County) of the Commonwealth of Pennsylvania, it is hereby *Ordered and Decreed* that the Petition, which provides for the elimination of Magisterial Districts 06-2-01 and 6-3-04 within Erie County, to be effective January 3, 2016, is granted; and that the Petition, which provides for the realignment of Magisterial Districts 06-1-01, 06-1-03, and 06-2-04, within Erie County, to be effective January 3, 2016, is granted; and that the Petition, which provides for the realignment of Magisterial District 06-3-01, within Erie County, to be effective January 3, 2016, is granted; and that the Petition, which also provides for the reestablishment of Magisterial Districts 06-1-02, 06-1-04, 06-1-05, 06-2-02, 06-3-01, 06-3-02, 06-3-03, 06-3-05, 06-3-06 and 06-3-08, within Erie County, to be effective immediately, is granted. The President Judge of Erie County shall provide to this Court no later than September 1, 2015 a

recommendation for the placement of the voting districts within Ward 4 of the City of Erie.

Said Magisterial Districts shall be as follows:

Magisterial District 06-1-01	City of Erie (Ward 1)
Magisterial District Judge	Suzanne C. Mack
Magisterial District 06-1-02	City of Erie (Ward 2)
Magisterial District Judge	Paul G. Urbaniak
Magisterial District 06-1-03	City of Erie (Ward 3)
Magisterial District Judge	Thomas Carney
Magisterial District 06-1-04	City of Erie (Ward 5)
Magisterial District Judge	Joseph R. Lefaiver
Magisterial District 06-1-05	City of Erie (Ward 6)
Magisterial District Judge	Dominick D. DiPaolo
Magisterial District 06-2-02	Millcreek Township (Voting Districts 3—10, 13—17, and 22—24)
Magisterial District Judge	Paul Manzi
Magisterial District 06-2-04	City of Corry
Magisterial District Judge	Elgin Borough Union City Borough Amity Township Concord Township Union Township Wayne Township
Magisterial District 06-3-01	Wesleyville Borough
Magisterial District Judge	Harborcreek Township Lawrence Park Township
Magisterial District 06-3-02	North East Borough
Magisterial District Judge	Greenfield Township North East Township
Magisterial District 06-3-03	Wattsburg Borough
Magisterial District Judge	Greene Township Millcreek Township (Voting Districts 1, 2, 11, 12, 18, 19, 20, and 21) Venango Township
Magisterial District 06-3-05	Mill Village Borough
Magisterial District Judge	Waterford Borough Le Boeuf Township Summit Township Waterford Township
Magisterial District 06-3-06	Edinboro Borough
Magisterial District Judge	McKean Borough Fairview Township Franklin Township McKean Township
Magisterial District 06-3-08	Albion Borough
Magisterial District Judge	Cranesville Borough Girard Borough Lake City Borough Platea Borough Conneaut Township Elk Creek Township Girard Township Springfield Township

[Pa.B. Doc. No. 14-2614. Filed for public inspection December 19, 2014, 9:00 a.m.]

## SUPREME COURT

**Reestablishment of the Magisterial Districts within the 11th Judicial District; No. 313 Magisterial Rules Doc.**

### Amended Order

*And Now*, this 29th day of November 2014, the Order dated February 25, 2013, that Reestablished the Magisterial Districts of the 11th Judicial District (Luzerne County) of the Commonwealth of Pennsylvania, is hereby *Amended* as follows: The elimination of Magisterial District 11-3-05 and the realignment of Magisterial Districts 11-3-01, 11-3-03, and 11-3-06 shall be effective December 1, 2014. The Order of February 25, 2013, shall remain in effect in all other respects.

RONALD D. CASTILLE,  
*Chief Justice of Pennsylvania*

[Pa.B. Doc. No. 14-2615. Filed for public inspection December 19, 2014, 9:00 a.m.]

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## SUPREME COURT

**Reestablishment of the Magisterial Districts within the 28th Judicial District; No. 340 Magisterial Rules Doc.**

### Amended Order

*And Now*, this 29th day of November, 2014, the Order dated April 23, 2013, and Amended Orders dated July 3, 2013, and January 6, 2014, that Reestablished the Magisterial Districts of the 28th Judicial District (Venango County) of the Commonwealth of Pennsylvania, are hereby *Amended* as follows: Magisterial District 28-3-04, shall not be eliminated. Magisterial District 28-3-02, shall be eliminated and Magisterial Districts 28-3-01 and 28-3-04 realigned effective January 1, 2015. The Orders of April 23, 2013, July 3, 2013, and January 6, 2014, shall remain in effect in all other respects.

RONALD D. CASTILLE,  
*Chief Justice of Pennsylvania*

[Pa.B. Doc. No. 14-2616. Filed for public inspection December 19, 2014, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 34—LABOR AND INDUSTRY

### DEPARTMENT OF LABOR AND INDUSTRY

#### [ 34 PA. CODE CHS. 111 AND 131 ]

#### Special Rules of Administrative Practice and Procedure before the Workers' Compensation Appeal Board and Workers' Compensation Judges

The Department of Labor and Industry (Department), Workers' Compensation Appeal Board (Board) and Office of Adjudication (Office), amends Chapters 111 and 131 (relating to special rules of administrative practice and procedure before the Workers' Compensation Appeal Board; and special rules of administrative practice and procedure before workers' compensation judges) to provide additional guidance for the litigation of matters before the Board, the Office and workers' compensation judges (judges), and to refine the regulations governing practices and procedures before the Board, the Office and judges.

#### *Statutory Authority*

This final-form rulemaking is adopted under the authority in sections 401.1, 435(a) and (c) and 1608 of the Workers' Compensation Act (act) (77 P.S. §§ 710, 991(a) and (c) and 2708), section 2205 of The Administrative Code of 1929 (71 P.S. § 565) and section 414 of The Pennsylvania Occupational Disease Act (77 P.S. § 1514).

#### *Background*

In 1980, the Secretary of the Department established a Rules Committee (Committee) to develop rules and procedures for the workers' compensation system. The Committee is comprised of Board representatives, judges, equal numbers of representatives of the claimant and defense bar, and Department representatives. From time to time, this Committee reconvenes to review Chapters 111 and 131 and to consider whether amendments are necessary in light of changes in existing workers' compensation law, practice or procedures.

Chapters 111 and 131 have been amended in 1989, 1991, 2002 and 2009. Most recently, the Committee reconvened on November 18, 2011, for the purpose of reviewing Chapters 111 and 131 in light of recent appellate decisions and the advent of the Department's new computer system, Workers' Compensation Automation and Information System (WCAIS). The Committee also considered comments received from various stakeholders since the last amendments took effect in 2009. Additionally, the Committee discussed the need for rules to address issues raised by the creation of the Uninsured Employers Guaranty Fund (UEGF) in 2007.

After several meetings between 2011 and 2012, the Committee created a draft proposed rulemaking. In fall 2012, the draft was widely circulated throughout the workers' compensation community for the purpose of receiving additional comment. The Committee conducted interactive meetings with various groups, including the Pennsylvania Bar Association at the Workers' Compensation Fall Section Meeting, the Philadelphia Bar Association, the Allegheny County Bar Association and the Lancaster County Bar Association to discuss the proposed changes and solicit comments. Additionally, the Commit-

tee presented the suggested amendments to the Pennsylvania Self-Insurers Association and the Workers' Compensation Advisory Council.

Several Committee meetings were conducted for the purpose of reviewing the suggestions and revising the proposed changes, after which the Committee voted on and approved proposed revisions to Chapters 111 and 131 on May 2, 2013. Thereafter, a proposed rulemaking was published at 44 Pa.B. 996 (February 22, 2014). As a result, the Department received written comments from the following: Thomas C. Lowry, Esq.; Workers' Compensation Judge Geoffrey L. Seacrist; Samuel R. Marshall, Esq. (on behalf of The Insurance Federation of Pennsylvania, Inc. (IFP)); Wendy A. Fleming, Esq., Joseph Turchi, Esq. and Workers' Compensation Judge Holly A. San Angelo (on behalf of the Philadelphia Bar Association's Workers' Compensation Section (PBAWCS)); Workers' Compensation Judge Joseph Hakun; Workers' Compensation Judge Ada Guyton (on behalf of the Pennsylvania Workers' Compensation Judges Professional Association (PWCJPA)); Workers' Compensation Judge Karl Baldys; Ronald L. Calhoun, Esq.; Workers' Compensation Judge Kenneth P. Walsh; G. Michael Spates, Esq. (on behalf of Rawle & Henderson LLP); and Workers' Compensation Judges Susan E. Kelley, Paul E. Baker, Francine Lincicome and Kelly F. Melcher. The Department also received written comments from the Independent Regulatory Review Commission (IRRC) dated April 23, 2014.

In response to the comments received, the Department carefully reviewed and considered all of the suggestions and concerns raised by the commentators. The Department also participated in discussions with certain commentators and Committee members regarding their concerns relating to the new procedural rules involving the UEGF. The Committee met on May 16, 2014, to discuss the comments, after which several subcommittees were convened to consider specific comments. The Committee again met on July 11, 2014, to discuss revisions to the provisions, which included several changes in response to the comments. Ultimately, the Committee voted to approve, unopposed, the revisions that are incorporated into this final-form rulemaking.

#### *Purpose*

This final-form rulemaking updates Chapters 111 and 131 to promote efficiency and to address new technological and statutory changes. Chapters 111 and 131 have not been updated since 2009. Since that time, the Department has been working on implementing WCAIS, an online workers' compensation claims information system encompassing the processes handled by the Bureau of Workers' Compensation (Bureau), the Office and the Board. Also, during these years, the Department has monitored proceedings involving the UEGF and discovered inefficiencies and increased costs for the parties under the current system. The final-form rulemaking addresses these issues by incorporating necessary changes to improve the efficiency of the system, expand filing options and ensure that parties will continue to be advised of up-to-date rules for practice and procedures before the Board, the Office and judges.

#### *Summary of Final-Form Rulemaking and Responses to Comments*

This final-form rulemaking clarifies and provides detailed guidance for practice and procedure before the Board, the Office and judges.

IRRC made the general comment that the Department should make every effort to resolve and reach consensus among the regulated community as it prepares the final-form rulemaking. In response to the comments, the Department held discussions and met with certain commentators to discuss their concerns. These meetings included a discussion of the insurance community's concerns with Samuel R. Marshall, Esq. on behalf of IFP, as well as discussion of the judges' concerns about the UEGF provisions with Ada Guyton, who was present on behalf of the PWCJPA. Following these discussions, several changes were made to the final-form rulemaking consistent with the comments received. With regard to the UEGF provisions, the significant final-form changes represent an agreed-upon compromise which retains language which reasonably satisfies the need for rules specific to UEGF proceedings in a manner which accommodates the judges' ability to exercise discretion in conducting UEGF proceedings following the first hearing.

IFP commented that future projects should include insurers as well as other stakeholders since the defense bar is not always the same. The Department closely monitors its various regulations and is committed to seeking and considering input from all stakeholders, including the insurance community, regarding concerns or suggestions for improvement to promote the efficiency of the workers' compensation system. Insofar as the Chapter 111 and 131 regulations impact litigation before the Board and judges, the Committee established by the Department is primarily comprised of representatives directly involved in the litigation process, including attorneys with many years of experience representing both claimant and insurer interests in these proceedings. However, the Department will continue to strive to be as inclusive as possible to ensure that all stakeholders' interests are considered in future regulatory projects.

IRRC also generally commented that the Department should ensure that the preamble and Regulatory Analysis Form make clear the need for the changes implemented by the final-form rulemaking. Many of the changes implemented in the final-form rulemaking were necessary to accommodate electronic filings and transactions as the result of the Department's implementation of its new computer system, WCAIS, to eliminate multiple or duplicative filings or to reflect the current practice in the community. Further changes, including those in Chapter 131, Subchapter D (relating to proceedings involving the UEGF), were necessitated to address procedural issues that have developed since the creation of the UEGF in 2007 under the act of November 9, 2006 (P. L. 1362, No. 147). The Department has also addressed this issue more specifically throughout the preamble, as necessary, in its discussion of the comments to individual rules, as well as in the Regulatory Analysis Form.

*Chapter 111. Special rules of administrative practice and procedure before the Workers' Compensation Appeal Board*

The Department amends Chapter 111 to delete requirements that multiple copies of documents shall be filed with the Board.

Section 111.3 (relating to definitions) is amended to clarify filing dates if filing by mail, common carrier, electronically or by hand-delivery, and to provide that a United States Postal Service Certificate of Mailing, USPS Form 3817 or similar form can be used as evidence of the filing date.

IRRC questioned whether the proposed definition of "common carrier" in § 111.3 was intended to include

taxicabs and utility companies, commenting that the Department should clarify the definition of common carrier, as appropriate. IFP recommended consistency of the filing requirements in § 111.3 of the Board rules and § 131.11(a) (relating to filing, service and proof of service) of the judges rules. The Department does not intend to include taxicabs and utility companies as methods of filing by "common carrier." Therefore, in response to the comments from IRRC, the Department replaced the proposed definition of "common carrier" with language within the definition of "filing" which clarifies that an appeal may be delivered by a "common carrier of property" which is subject to the authority of the Pennsylvania Public Utility Commission or the United States National Surface Transportation Board. This language is now consistent with the common carrier filing provisions recently promulgated in other Department regulations. See §§ 63.25(c) and 101.82(b)(2) (relating to filing methods; and time for filing appeal from determination of Department). Upon further consideration, the Department also agrees with IFP that the filing requirements within the Board and judges rules should be consistent to avoid confusion within the workers' compensation community. Therefore, reference to the use of the United States Postal Service Certificate of Mailing has been added to the definition of "filing" in § 111.3, and the subsections within that definition have been reordered consistent with § 131.11(a).

Section 111.11 (relating to content and form) is amended to clarify that an appeal of a judge's decision is deemed to include all claim numbers, dispute numbers and petition numbers referenced in the decision being appealed.

IFP questioned whether the proposed language in § 111.11(a)(1) that an appeal is deemed to include "all claims, disputes and petitions" intends that there cannot be partial appeals. IRRC commented that if it is the Department's intent to disallow partial appeals under § 111.11(a), the Department should explain the need for, and reasonableness of, this requirement. IRRC asked the Department to clarify this provision if disallowance of partial appeals is not intended. In response, the Department does not intend this change to disallow partial appeals. Rather, this change is intended to streamline the appeal process by preventing the need for separate, duplicative appellate filings by the same party where the judge's decision involves matters which are identified by multiple claim numbers, dispute numbers or petition numbers in WCAIS. To clarify this, "numbers" was added after the references to claim, dispute and petition in this final-form rulemaking. Notwithstanding this provision, it remains that only issues properly raised in the appellate filing are on appeal, consistent with current case law.

Section 111.12 (relating to filing, service and proof of service) is amended to clarify requirements for appeals filed with the Board.

IRRC commented that § 111.12 does not provide information on where online electronic filing procedures will be located and asked that the Department clarify how electronic filing will be implemented. The electronic filing procedures are set forth in detail on the Department's web site at [www.dli.state.pa.us](http://www.dli.state.pa.us). For clarity, the Department added a reference to the web site in this provision.

Section 111.13 (relating to processing of appeals and cross appeals) is amended to delete the requirement that the date of the acknowledgement is 3 days subsequent to the date the acknowledgement is mailed.

Section 111.14 (relating to motions to quash) is amended to delete the requirement that two copies of a motion to quash shall be filed with the original motion.

Section 111.16 (relating to briefs: content and form and time for filing) is amended to delete the requirement that two copies of a brief shall be filed with the original brief.

Section 111.21 (relating to content and form) is amended to clarify that the decision and order of the judge must be included with a request for supersedeas filed with the Board.

Section 111.22 (relating to filing) is amended to clarify the requirements for a request for supersedeas filed with the Board.

Section 111.24 (relating to disposition of request for supersedeas) is amended to specify that the Board will have 30 days from the date of the receipt of the request for supersedeas to rule on a request or the request will be deemed denied.

Section 111.31 (relating to applicability) is amended to clarify that Chapter 111, Subchapter D (relating to other petitions) also applies to petitions for reconsideration under section 426 of the act (77 P. S. § 871).

Section 111.32 (relating to form/content) is amended to delete the requirement that two copies of a petition or request shall be filed with the original petition or request.

Section 111.34 (relating to answers to petitions) is amended to delete the requirement that two copies of an answer shall be filed with the original answer.

*Chapter 131. Special rules of administrative practice and procedure before workers' compensation judges*

The Department amends Chapter 131 to replace reference to the Bureau with reference to the Department.

Section 131.3 (relating to waiver and modification of rules) is amended to provide that the judge cannot waive or modify the provisions in § 131.202 (relating to first hearing information and stay).

IRRC commented that the Department should revise the proposed language in § 131.3, which provided that the judge cannot waive or modify the provisions in "Subchapter D," to clarify the specific provisions in Chapter 131, Subchapter D that are being addressed. Joseph Hakun commented that references to "Subchapter D" in § 131.3 may be read as expanding the bar to a judge's ability to waive or modify rules, to all rules involving the UEGF. PWCJPA commented that reference to "Subchapter D" prohibits any exercise of discretion on the part of the judge. Susan E. Kelley, Paul E. Baker, Francine Lincicome and Kelly F. Melcher raised an identical concern to this section. Karl Baldys also noted his support of PWCJPA's comment. In response to the comments, and in connection with further changes made to Chapter 131, Subchapter D in this final-form rulemaking, the Department clarified the amendment to § 131.3 to specify that only the first hearing provisions of § 131.202 are included in the exception to the waiver and modification of rules.

Related comments to those received regarding § 131.3 were also received regarding the proposed rulemaking's exception of "Subchapter D" from the one-day trial provisions in § 131.53a(a) (relating to consolidated hearing procedure). The Department disagreed that the proposed amendment to § 131.53a(a) would operate as a complete bar or prohibition of all judicial discretion. However, based upon further consideration and discussion with some of the commentators, which discussion resulted in the previously discussed clarification to § 131.3 as well as

the Department's inclusion of new, discretionary language regarding the scheduling of hearings in UEGF matters in § 131.203 (related to hearing procedures), the proposed amendment to § 131.53a is no longer necessary and has been withdrawn.

Section 131.5 (relating to definitions) is amended to add definitions of "Board," "claim petition" and "UEGF claim petition." The Department adds a definition of "writing" to clarify that a "writing" can include electronic communications. The Department adds "UEGF" to the definition of "Uninsured Employers Guaranty Fund."

IFP and IRRC commented that the Department should explain the need for amending the definition of "party" in § 131.5 to include "employee" and how an employee differs from a claimant. Upon further consideration, the Department deleted the proposed reference to "employee" within the definition of "party" to avoid redundancy, as it is otherwise included within the definition of "claimant."

Section 131.11 is amended to clarify current filing and service requirements, including allowing filing by common carrier, and to provide that a United States Postal Service Certificate of Mailing, USPS Form 3817 or similar form can be used as evidence of the filing date.

IFP commented that the filing provisions in § 131.11 should be consistent with the revisions to the filing provisions in § 111.3, including filing by common carrier, or in the alternative, the Department should explain the reasons for differences in the filing requirements. IRRC commented that the Department should ensure that the proposed language in § 131.11(a)(3) provides clear filing requirements for the regulated community. IRRC also recommended that the filing and service information and address for the Department in § 131.11(e), and any changes thereto, be published both in the *Pennsylvania Bulletin* and on the Department's web site, not just in one or the other location. As addressed in the response to § 111.3, the Department agrees that the filing requirements in the final-form rulemaking should be consistent throughout and has made the necessary changes to § 131.11(a) to ensure clarity and consistency by including language similar to § 111.3 and its other regulations that also allows filing by a "common carrier of property." In addition, the Department agrees with the recommendation by IRRC regarding § 131.11(e), and amended this subsection to provide for publication in the *Pennsylvania Bulletin* and on the Department's web site.

Section 131.32 (relating to petitions except petitions for joinder and challenge proceedings) is amended to provide that a party shall file forms as prescribed by the instructions on the form. If a form is not prescribed by the Department, the party shall file an original of the petition with the Department.

Section 131.33 (relating to answers except answers to petitions for joinder and challenge proceedings) is amended to clarify requirements for filing answers to claim petitions and other petitions, except petitions for joinder and challenge proceedings.

IFP commented that the distinction between claim petitions and all other petitions in proposed § 131.33(a) is confusing. IFP also commented that the Department should explain the reason for the addition of petitions to review utilization review determination to § 131.33(a). The distinction between claim petitions and all other petitions in this section is based upon, and consistent with, section 416 of the act (77 P. S. § 821), which provides, in part, that the failure to timely answer and



deny facts alleged in a claim petition only, may result in those facts being deemed admitted. It is also consistent with the long-standing Commonwealth Court decision in *Yellow Freight Sys., Inc. v. WCAB (Madara)*, 423 A.2d 1125 (Pa. Cmwlth. 1981). To avoid confusion however, the Department agrees with IFP that the proposed additional reference to petitions to review utilization review determination should be deleted, as those petitions are separately addressed in § 127.554 (relating to petition for review by Bureau—no answer allowed).

Section 131.36 (relating to joinder) is amended to specify that petitions for joinder and answers to the joinder petitions should be filed with the Department.

Section 131.52 (relating to first hearing procedures) is amended to specify that, at the first hearing, parties shall identify Department documents that are relevant to the claim or dispute and, if not available electronically, provide actual copies of those documents to the judge.

IRRC commented that the proposed language in § 131.52(e) seems to move responsibility for obtaining documents to the judge and, therefore, asked that the Department explain the need for, and reasonableness of, this change. Geoffrey L. Seacrist commented that § 131.52(e) should not eliminate the requirement that the parties provide to the judge copies of all relevant documents filed with the Department. The Department's intent is not to move responsibility for obtaining documents to the judge, but rather to eliminate the duplicate filing of documents which are already electronically available to the judge within the Department's new electronic system, WCAIS. This section does not preclude the parties from also providing copies of the filed documents to the judge if necessary and, to this end, the Department has clarified this provision to provide that the parties shall provide the documents if not otherwise electronically available to the judge.

Section 131.53b (relating to bifurcation and motions for disposition of a petition) is amended to allow motions for disposition of a petition and establish guidelines for their handling.

IFP commented that the Department should clarify what motions were envisioned under the proposed language in § 131.53b(b), which as proposed involved motions for "summary disposition of a claim." IFP also commented that the Department should clarify the process after the motion is filed, including the opportunity for response, and questioned whether the motions have any particular requirements. IRRC commented that the proposed language in § 131.53b(b) was silent as to whether and when an opposing party may file a response to a motion. IRRC asked the Department to explain the need for, and reasonableness of, this provision, and to ensure it is clear. PBAWCS commented that the 45-day motion procedure in § 131.53b(b) adds unnecessary delay to the litigation process and appears to leave no mechanism for when or whether an opposing party may respond.

The Department intends § 131.53b(b) to streamline litigation by providing an expedited method, upon a party's motion, for judges to dispose of a petition pending before them. To clarify its purpose, the Department deleted the reference to "summary disposition of a claim" and replaced it with "disposition of a petition." The Department believes that requirements as to the form, as well as the timing, of a response, should be left to the discretion of the judge. To better clarify the process however, the Department added specific language indicating that the response shall be made within a time

specified by the judge, and that the judge will issue an order or provide reasons for not doing so within 30 days of the response due date. The Department also deleted the language that the articulated reasons for not ruling on the motion be "substantial and compelling." Insofar as the provision provides that pendency of the motion does not act as a stay, the Department disagrees with the comment that the procedure will add unnecessary delay to the litigation process. To the contrary, the Department believes that this procedure will aid in streamlining the litigation.

Section 131.55 (relating to attorney fees and costs) is amended to require claimant's counsel to submit a copy of the fee agreement or any other statement or claim for disbursements, costs and expenses, and to obtain approval from the judge or the Board before the agreement, statement or claim will be valid.

Thomas C. Lowry inquired whether § 131.55(a) precludes an attorney who is operating with a signed fee agreement from obtaining, without approval of a judge, an advance from the claimant to pay litigation costs as set forth in the agreement. Ronald L. Calhoun commented that if a claimant's attorney cannot charge or collect costs of litigation from a client unless approved by a judge under § 131.55(a), many injured workers will not be able to find representation because attorneys may not advance these costs. IRRC questioned the need for the proposed language in § 131.55(a), commenting that this requirement could delay legal representation or eliminate it altogether for a claimant seeking assistance. IRRC also asked whether an attorney must be expected to advance costs on behalf of a client even when there is a contingent fee in place. Further, IFP commented that the Department should clarify the meaning of "claim" in proposed § 131.55(a).

The amended language in § 131.55(a) was previously in § 121.24. In 2007, the Department rescinded that section by final-form rulemaking published at 37 Pa.B. 4181 (August 4, 2007), noting in the preamble that the requirements concerning attorney fees are more appropriately addressed in Chapter 131. This language is based upon, and consistent with, the approval requirements in sections 440, 442 and 501 of the act (77 P.S. §§ 996, 998 and 1021). This language is not intended to alter the existing fee approval requirements under sections 440, 442 and 501 of the act or to change the current practice for seeking fee approval, and therefore should not delay or eliminate legal representation for injured workers. The language neither requires nor prohibits the advancement of costs, but rather reinforces the existing requirements in the act and Rules of Professional Conduct regarding the need for executed fee contracts regardless of which party is ultimately determined to be liable for the payment of the fees and costs in the case. The Department believes that this section reasonably ensures that the necessary approval of fee agreements and claims for disbursements, costs and expenses is promptly obtained by counsel, both when and as required under sections 440, 442 and 501 of the act. Further, the Department intends that "claim" in this section refers to a claim for fees or other disbursements, costs or expenses. To clarify this meaning, the Department deleted the initial use of the term in the first sentence.

Section 131.63 (relating to time for taking oral depositions) is amended to provide that an oral deposition may be taken at any time subsequent to the date of the assignment, rather than the date of service, of the petition by the Department.

Section 131.81 (relating to subpoenas) is amended to provide for electronic subpoena requests and to prohibit service of subpoenas until 10 days after issuance by the judge unless otherwise agreed to by the parties.

IRRC made several comments regarding the proposed language in § 131.81(b) pertaining to the proposed 7-day period to object to subpoena requests. IRRC inquired about what was to occur following the filing of an objection, why objections were to be made to a request rather than service of a subpoena and how the Department determined that a 7-day period was appropriate. IRRC commented that the Department should explain the need for, and reasonableness of, the provision and ensure the procedures are clear. IFP also commented that the Department should explain how the 7-day period for objecting to a request for a subpoena was determined, and whether this new rule is consistent with the filing rules in § 131.11 or a different rule. Geoffrey L. Seacrist commented that the proposed period for objections to a subpoena in § 131.81(b) should begin on the date of service, not the date the request is made to the judge. G. Michael Spates commented that the proposed 7-day period for objections to a subpoena in § 131.81(b) is too short and should be extended to 10 calendar days. G. Michael Spates also suggested adding language to § 131.81(b) requiring that the judge circulate an interlocutory order on the party's objection prior to the issuance of the subpoena. Thomas C. Lowry questioned the requirement in § 131.81(a) that the party requesting a subpoena "shall complete the subpoena," noting his experience that a records deposition date was usually left blank due to the time delay between submission and return of a paper subpoena from a judge. Thomas C. Lowry also commented that § 131.81(c) should include a requirement that a copy of the service of a subpoena also be served on the judge.

In response to the comments about the proposed 7-day period to object to a subpoena request in § 131.81(b), and upon further consideration, the Department deleted this requirement from the final-form rulemaking. The Department agrees that the proposed 7-day period was both short and difficult to calculate. Moreover, the Department believes that the current practice for objecting to subpoenas under proposed § 131.81(c) (final-form § 131.81(d)) is sufficient. The Department has retained as modified the amended language in § 131.81(b) requiring that a subpoena may not be served until 10 days after its issuance absent agreement of the parties. The Department believes that this requirement will reasonably encourage prompt communication and resolution of potential concerns about subpoenas, and provide opportunity for objections to be raised promptly prior to service, if necessary. While a judge may issue an interlocutory order concerning an objection to a subpoena, the Department does not agree with the comment that this should be required by regulation, and this change has not been made. The Department believes that this should be left to the discretion of the judge. In addition, the amended language in § 131.81(a) requiring parties to "complete the subpoena" is not intended to change current practice, but rather to emphasize that it is the responsibility of the party, not the judge, to fill out the paper or electronic subpoena request. In response to the comment about delay in issuance of subpoenas, the Department notes that the new electronic system, WCAIS, has greatly reduced the time between the subpoena request and the issuance of the signed subpoena by the judge. In WCAIS, registered parties can file subpoena requests, and judges can issue subpoenas, electronically and almost immedi-

ately to those who have elected electronic service. Moreover, while the parties are not prohibited from providing a copy of service of the subpoena on the judge if they desire, it is not necessary. Therefore, the Department does not agree with the comment that § 131.81(c) should require this service in all cases, and this change has not been made.

Section 131.91(b) (relating to stipulations of fact) is amended to add a paragraph requiring stipulations to be signed by the claimant, all counsel and the employer, if the employer is unrepresented. The Department further adds paragraphs requiring the stipulation to expressly provide which petitions are being resolved, whether a petition is being withdrawn, granted or dismissed, and whether the parties are requesting an interlocutory order or a final order.

IFP commented that the Department should clarify what stipulations fall within the phrase "dispositive of the case," as used in the proposed language in § 131.91(b), to require satisfaction of the signature requirements in this subsection. IFP also sought clarification of the purpose of requiring a claimant to sign a stipulation when they are represented by counsel or the matter involves a petition to review utilization review determination. Upon further consideration, the Department deleted the reference to "dispositive of the case" from § 131.91(b)(3) to avoid confusion concerning the signature requirement. The final-form regulation now clarifies that the signatures, including the signature of claimant, are required for all stipulations. The Department believes that requiring the claimant's signature, even when represented by counsel, is reasonable and necessary to allow the judge to be satisfied, as required under § 131.91(b)(2), that the claimant understands the effect of the stipulation on future compensation and medical expenses. This is also reasonable and necessary for stipulations involving a petition to review utilization review determination, whether or not the petition was filed by the claimant, to ensure that the claimant understands the effect on his medical expenses for treatment with the provider under review.

The Department adds Chapter 131, Subchapter D to provide specific guidelines concerning these proceedings.

IRRC commented that the Department should explain the need for, and reasonableness of, adding Chapter 131, Subchapter D based on the concerns regarding certain provisions raised by commentators. Joseph Hakun commented that the UEGF rules as proposed would bar the exercise of discretion by judges in procedural matters. PWCJPA, as well as Susan E. Kelley, Paul E. Baker, Francine Lincicome and Kelly F. Melcher, also commented that the UEGF rules as proposed would prohibit judicial discretion. However, each commentator also acknowledged that procedural rules may be appropriate to address legitimate needs of the UEGF. Karl Baldys noted his support of PWCJPA's comment.

Chapter 131, Subchapter D is intended to promote the efficient use of all parties' litigation resources through better coordination of the claim petition against the employer (LIBC-362 claim petition) with the related claim petition filed against the employer and the UEGF (UEGF claim petition). The UEGF is a secondarily liable party to a UEGF claim petition and does not have a pre-existing relationship with the parties which would provide it prelitigation access to much of the information or witnesses required to defend a claim. More so than other parties in typical workers' compensation proceedings, the UEGF must rely heavily on information brought out after

the filing of a UEGF claim petition through subsequent discovery and hearings. The Department believes, as acknowledged by the commentators, that procedural rules are appropriate to address the legitimate needs of this statutorily-created fund. Indeed, in enacting the UEGF, the General Assembly provided in section 1608 of the act that the Department “may promulgate regulations for the administration and enforcement” of the UEGF. The procedural rules in Chapter 131, Subchapter D benefit all parties, including the UEGF, by promoting quicker consolidation and resolution of the claims in UEGF proceedings and reducing the additional time and effort required to obtain information, join all appropriate parties and reach a judicial determination regarding potential liability and award of the claim. In doing so, the final-form rulemaking reasonably provides for judicial involvement as necessary to ensure that the litigation proceeds to a resolution efficiently and fairly for all parties.

Section 131.201 (relating to petitions) provides that all references to petitions in Chapter 131, Subchapter D are defined as under § 131.5.

Section 131.202 directs a judge to provide information about the UEGF to a claimant in an LIBC-362 claim petition when a UEGF claim petition has not been filed and there is not an insurer listed on the notice of assignment or the insurer has filed a motion for dismissal based on noncoverage. If the claimant indicates an intention to file a UEGF claim petition, the judge is directed to stay the proceedings on the LIBC-362 claim petition until 20 days after the assignment of the UEGF claim petition. If the UEGF claim petition is not filed within 45 days, the LIBC-362 claim petition will proceed. This section cannot be waived or modified, as otherwise provided in § 131.3.

IRRC commented that the Department should explain the need for, and reasonableness of, the requirement in § 131.202(a) that the judge is to inform the claimant of the existence of the UEGF. PWCJPA commented that the requirement of informing the claimant of the existence of the UEGF compromises the judge’s independence, may subject the judge to being called as a witness and is contrary to certain of the judges’ code of ethics requirements involving avoiding impropriety, performing duties impartially and upholding the integrity of the workers’ compensation system in section 1404(a) of the act (77 P. S. § 2504(a)). Susan E. Kelley, Paul E. Baker, Francine Lincicome and Kelly F. Melcher raised an identical concern to this section. Karl Baldys also noted his support of PWCJPA’s comment.

This regulation aims to promote due process and judicial economy by ensuring prompt inclusion of all potential parties, including the UEGF, to a claim against an uninsured employer. By requiring a judge to provide information about the UEGF and to stay the first hearing on an LIBC-362 claim petition until 20 days after the notice of assignment of the UEGF claim petition (if one is filed), this regulation promotes efficiency and reduces costs for all parties by eliminating duplicative hearings and depositions necessitated by the UEGF’s late arrival to the claim proceeding. The Department does not agree that requiring the judge to provide information on the existence of the UEGF either compromises judicial independence or is contrary to the judicial code of ethics. The Department also does not believe provision of this information will subject the judge to being called as a witness. First, it is anticipated that this information will be documentary in nature and will be done on the record. The Department recognizes that varying information concerning the UEGF’s existence is currently being provided

verbally by judges in some matters, sometimes on-the-record and sometimes off-the-record. This final-form rulemaking simply ensures that the provision of the information is uniform across this Commonwealth for all claimants, to allow claimants to make informed decisions as to whether they wish to file a UEGF claim petition. Moreover, insofar as this section relates to judicial procedures in these matters only, the requirement that a claimant inform the judge whether he intends to file a UEGF claim petition following provision of the information is not intended to preclude a later filing to the extent otherwise allowed by law. Second, this section is only applicable in the limited number of cases when a UEGF claim petition has not been filed and there is not an insurer listed on the notice of assignment for the LIBC-362 claim petition or the insurer has filed a motion for dismissal based on noncoverage. Due to the uniqueness of the UEGF from other types of workers’ compensation litigation, provision of this information by the judge at the first hearing on the LIBC-362 claim petition, and allowing for a stay for the filing of a UEGF claim petition, is reasonable and necessary to accomplish the goals of due process, judicial economy and fairness. For these reasons, although the Department has agreed to otherwise delete the nonwaiver provisions regarding the “one day one trial” procedure proposed in § 131.203 and proposed § 131.204 (relating to waiver and modification of §§ 131.202 and 131.203), the nonwaiver language regarding § 131.202 has been retained by adding § 131.202(e) in this final-form rulemaking. By way of compromise however, following discussions with PWCJPA, § 131.202(e) specifically recognizes that the nonwaivability of § 131.202 is “in the interests of judicial economy and due process to have all parties joined as soon as possible, and in recognition of the uniqueness of the UEGF from other types of workers’ compensation litigation.”

Section 131.203 provides that if the UEGF requests live testimony of witnesses before the judge, the judge will schedule hearings to accommodate the request, unless denied for good cause shown and stated on the record.

IRRC commented that the Department should explain the need for, and reasonableness of, the requirement of the agreement of all parties in writing or on the record for a judge to waive or modify this section and § 131.202, as found in proposed § 131.204(a). IRRC also asked the Department to explain how this is in the public interest. Joseph Hakun commented that requiring the agreement of all participating parties for waiver or modification of the rules under proposed § 131.204(a), rather than requiring a “good cause” standard, gives an employer who may be subject to criminal sanctions the ability to “veto” a waiver or modification. PWCJPA, Joseph Hakun and Kenneth Walsh commented that requiring agreement of all participating parties inappropriately prohibits any exercise of discretion on the part of the judge in cases involving the UEGF. PWCJPA specifically commented that the judge’s discretion should not be subject to employers’ consent. Susan E. Kelley, Paul E. Baker, Francine Lincicome and Kelly F. Melcher raised identical concerns to this section. Karl Baldys also noted his support of PWCJPA’s comment.

Upon further consideration and discussion with some of the commentators, the Department agreed to delete the waiver provision in proposed § 131.204 in its entirety, including the requirement that agreement of all parties was required. In addition, the Department deleted the proposed language in § 131.203 which provided that § 131.53a would not apply to Subchapter D proceedings.

The Department replaced the proposed language in § 131.203 with new language providing that if the UEGF requests live testimony of witnesses before the judge, the judge will schedule hearings to accommodate the request unless denied for good cause shown and stated on the record. The Department believes this language reasonably affords the UEGF, which has no pre-existing relationship with the other parties, the necessary opportunity to develop the facts of a case through testimony at a hearing prior to the final hearing in a matter, but also provides the judge with discretion to deny that request utilizing a good cause standard, as suggested by the commentators.

Final-form § 131.204 (proposed § 131.205) (relating to UEGF subpoenas and interrogatories) authorizes judges to issue subpoenas, order testimony and compel completion of written interrogatories concerning the uninsured employer's financial history, condition or ability to pay an award. Additionally, this section authorizes a judge to compel the attendance of the parties at mediation.

Joseph Hakun commented that the UEGF rules should be delayed because there may be interplay between the information to be obtained under proposed § 131.205(a) (final-form § 131.204(a)) and pending legislation in the 2013-2014 session of the General Assembly. The Department disagrees. The legislation as proposed has no impact on these procedural changes to the practice before judges, nor is there any interplay or overlap between the information to be obtained under this specific section and any of the provisions contemplated in the legislative bill.

Ronald L. Calhoun commented that the rule requiring that independent medical examinations take place within 45 days of the first hearing should be amended to include first hearings of any type, including hearings where testimony is not taken. This rule is found in § 131.53(g) (relating to procedures subsequent to the first hearing). This section, however, was not part of the Department's proposed rulemaking. The Department has taken this comment under advisement and will review and monitor the suggestion, with the assistance of the Committee, for a possible future rulemaking.

*Affected Persons*

Those affected by this final-form rulemaking include the Board Commissioners and officials, employees of the Department, the Office and judges, as well as attorneys and litigants in the workers' compensation system in this Commonwealth.

*Fiscal Impact*

There is no significant fiscal impact associated with this final-form rulemaking. However, the final-form rulemaking may provide savings to the regulated community through: (1) reduced copying and mailing costs, as the number of copies of filings has been reduced and documents may be filed electronically; and (2) reduced overall litigation expenses for all parties to claim proceedings involving the UEGF due to better coordination and handling of the litigation process in these matters.

*Reporting, Recordkeeping and Paperwork Requirements*

The final-form rulemaking does not require the creation of new forms. There are no other additional reporting, recording or paperwork requirements on either the Commonwealth or the regulated community.

*Effective Date*

This final-form rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

*Sunset Date*

A sunset date is not necessary. The Department will continue to monitor the impact and effectiveness of the regulations.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 10, 2014, the Department submitted a copy of the notice of proposed rulemaking, published at 44 Pa.B. 996, to IRRC and the Chairpersons of the Senate Labor and Industry Committee and the House Labor and Industry Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 5, 2014, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 6, 2014, and approved the final-form rulemaking.

*Findings*

The Department finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The final-form rulemaking is necessary and appropriate for the administration and enforcement of the authorizing statutes.

*Order*

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 34 Pa. Code Chapters 111 and 131, are amended by adding §§ 131.201—131.204 and by amending §§ 111.3, 111.11—111.14, 111.16, 111.21—111.24, 111.31, 111.32, 111.34, 131.3, 131.5, 131.11, 131.21, 131.32, 131.33, 131.36, 131.50, 131.52, 131.53b, 131.55, 131.57, 131.58, 131.60, 131.63, 131.81 and 131.91 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

*(Editor's Note:* The proposed amendments to § 131.53a published at 44 Pa.B. 996 have been withdrawn by the Department. Proposed § 131.204 has been withdrawn by the Department. Final-form § 131.204 was published in the proposed rulemaking as § 131.205.)

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality and form as required by law.

(c) The Secretary of the Department shall submit this order and Annex A to the Independent Regulatory Review Commission and the Senate and House Committees as required by law.

(d) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

JULIA K. HEARTHWAY,  
Secretary

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 7424 (November 22, 2014).)*

**Fiscal Note:** Fiscal Note 12-99 remains valid for the final adoption of the subject regulations.

### Annex A

## TITLE 34. LABOR AND INDUSTRY

### PART VII. WORKERS' COMPENSATION APPEAL BOARD

#### CHAPTER 111. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE BEFORE THE WORKERS' COMPENSATION APPEAL BOARD

##### Subchapter A. GENERAL PROVISIONS

##### § 111.3. Definitions.

(a) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Workers' Compensation Act (77 P. S. §§ 1—1041.4 and 2501—2708).

*Appeal*—A proceeding to review a ruling or decision by a judge.

*Board*—The Workers' Compensation Appeal Board.

*Disease Law*—The Pennsylvania Occupational Disease Act (77 P. S. §§ 1201—1603).

*Filing*—Filing is deemed complete upon one of the following:

- (i) Delivery in person.
- (ii) If by electronic submission, upon receipt and in a format as prescribed by the Department and published in the *Pennsylvania Bulletin* or the Department's web site located at [www.dli.state.pa.us](http://www.dli.state.pa.us).
- (iii) If by mail, upon deposit in the United States mail, properly addressed, postage or charges prepaid, as evidenced by one of the following:

(A) United States Postal Service postmark.

(B) United States Postal Service Certificate of Mailing (USPS Form 3817 or other similar United States Postal Service form from which the date of deposit can be verified), enclosed with the filing or submitted separately to the Department.

(iv) An appeal may be delivered by a common carrier of property which is subject to the authority of the Pennsylvania Public Utility Commission or the United States National Surface Transportation Board. The date of filing is the date the document was delivered to the common carrier, as established by a document or other record prepared by the common carrier in the normal course of business. If the date of delivery to the common carrier cannot be determined by the documents in the record, the date of filing will be the date of its receipt by the Board.

*Judge*—A workers' compensation judge assigned by the Office of Adjudication as provided in section 401 of the act (77 P. S. § 701) or assigned by the Office of Adjudication to determine a petition filed under the Disease Law.

*Office of Adjudication*—The Office of the Department created under section 1401(a) of the act (77 P. S. § 2501(a)).

*Party*—A petitioner or respondent. An act required or authorized by this chapter, to be done by or to a party, may be done by or to that party's counsel of record.

*Petitioner*—Anyone seeking to review a ruling or decision by a judge or the moving party in a petition filed under Subchapter D (relating to other petitions).

*Respondent*—Anyone in whose favor the matter was decided by the judge or other than the moving party in any petition filed under Subchapter D.

*Service*—Delivery in person, by mail or electronics. If service is by mail, it is deemed complete upon deposit in the United States mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid.

*Supersedeas*—A temporary stay affecting a workers' compensation case.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.3, 31.11 and 33.34 (relating to definitions; timely filing required; and date of service).

##### Subchapter B. APPEALS

##### § 111.11. Content and form.

(a) An appeal or cross appeal shall be filed with the Board on a form provided by the Board. All references to forms mean paper forms or an electronic format prescribed by the Board and published in the *Pennsylvania Bulletin* or the Department's web site located at [www.dli.state.pa.us](http://www.dli.state.pa.us). All forms must contain the following information:

(1) The name and address of the claimant, name and address of the defendant, date of the injury, type of petition, insurance carrier and circulation date of the decision at issue. An appeal from a workers' compensation judge's decision is deemed to include all claim numbers, dispute numbers and petition numbers referenced in the decision and order which are the subject of the appeal. This paragraph does not supersede the other requirements of this section.

(2) A statement of the particular grounds upon which the appeal is based, including reference to the specific findings of fact which are challenged and the errors of the law which are alleged. General allegations which do not specifically bring to the attention of the Board the issues decided are insufficient.

(3) A statement of the relief which is requested.

(4) A statement whether the petitioner seeks an opportunity to file a brief or present oral argument or whether the case should be heard on the record without brief or oral argument.

(5) Identification of the judge whose decision is in question, including as an attachment, a copy of that judge's decision.

(6) A proof of service as specified in § 111.12(e) (relating to filing, service and proof of service).

(b) An appeal or a cross appeal shall be served on all parties and the judge.

(c) A request for supersedeas, if desired, shall be indicated on the appeal and conform to § 111.21 (relating to content and form).

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 31.5, 33.1—33.4, 33.11, 33.12, 35.17 and 35.20.

**§ 111.12. Filing, service and proof of service.**

(a) When filing other than electronically, an original of each appeal or cross appeal shall be filed. The appeal shall have attached a copy of the judge’s decision which is in question as required by § 111.11(a)(5) (relating to content and form).

(b) When filing electronically, the petitioner shall follow the online procedures established by the Department on its web site located at [www.dli.state.pa.us](http://www.dli.state.pa.us).

(c) The petitioner shall serve a copy of any appeal upon all parties and the judge.

(d) The respondent shall serve a copy of any cross appeal upon all parties and the judge.

(e) The petitioner or respondent shall, concurrently with the filing of an appeal or cross appeal, on a form prescribed by the Board or in substantial compliance therewith, file a proof of service with the Board containing:

- (1) A statement of the date of service.
- (2) The names of parties and judge served.
- (3) The mailing address, the applicable zip code and the manner of service on the parties and judge served.

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 31.26, 33.15, 33.32, 33.33 and 33.35—33.37.

**§ 111.13. Processing of appeals and cross appeals.**

(a) Upon receipt of an appeal or a cross appeal, the Board will acknowledge receipt to all parties.

(b) The Board will, in addition to acknowledging receipt of the appeal or the cross appeal, establish the briefing schedule and indicate that the appeal and the cross appeal will be scheduled for oral argument unless all parties agree to submission of the case on only briefs or record.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.31 (relating to service by the agency).

**§ 111.14. Motions to quash.**

(a) A party may submit a motion to quash an appeal or a cross appeal within 20 days of service of the appeal or the cross appeal.

(b) A motion to quash shall be served on all parties.

(c) A motion to quash shall be accompanied by a proof of service conforming to § 111.12(e) (relating to filing, service and proof of service), insofar as applicable.

(d) The Board shall dispose of a motion to quash in conformity with the procedures set forth in § 111.35 (relating to dispositions of petitions).

(e) An original motion to quash shall be filed.

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 31.26, 33.15, 33.32, 33.33, 33.35—33.37, 35.54 and 35.55 and also supersede 1 Pa. Code Chapter 35, Subchapter D (relating to motions).

**§ 111.16. Briefs: content and form and time for filing.**

(a) A brief on behalf of a petitioner shall be filed with the Board at or before the date of oral argument. If oral argument is waived, petitioner shall file a brief within 30

days of the date of the Board’s acknowledgment of receipt of the appeal as set forth in § 111.13 (relating to processing of appeals and cross appeals).

(b) A brief on behalf of a respondent shall be filed with the Board 30 days after oral argument. Otherwise, the respondent shall file a brief with the Board within 60 days of the date of the Board’s acknowledgment of receipt of the appeal as set forth in § 111.13.

(c) Upon written request of a party directed to the Secretary of the Board or upon oral request at the time of oral argument, and with notice to all parties, the Board may extend or shorten the time for filing of the party’s brief only for good cause shown. A party shall present a request to extend or shorten the time at or before the date set for filing that party’s brief.

(d) Briefs not filed with the Board in accordance with the schedule in this section or as modified by the Board under subsection (c) will not be considered and will result in disposition of the appeal without further notice or consideration of the brief of the party failing to comply with these deadlines or schedule.

(e) Briefs, except as otherwise allowed, shall consist of the following items, separately and distinctly set forth:

- (1) A short statement of the questions involved.
- (2) A statement of the facts by the petitioner, or counterstatement of the facts by the respondent.
- (3) The argument.
- (4) A short conclusion setting forth the precise relief sought.

(5) A proof of service as specified in § 111.12(e) (relating to filing, service and proof of service) insofar as applicable.

(f) An original brief shall be filed.

(g) Briefs shall be served on all parties.

(h) Subsections (a)—(g) supersede 1 Pa. Code §§ 31.15, 33.37, 35.212 and 35.221 and also supersede 1 Pa. Code Chapter 35, Subchapter F (relating to briefs).

**Subchapter C. SUPERSEDEAS ON APPEAL TO THE BOARD AND COURTS**

**§ 111.21. Content and form.**

(a) A request for supersedeas shall be filed as a separate petition from the appeal and be accompanied by the following:

- (1) A copy of the decision and order of the judge or order and opinion of the Board from which the supersedeas is requested.
- (2) A short statement setting forth reasons and bases for the request for supersedeas.
- (3) A specific statement as to the issues of law, if any, involved in the underlying appeal.
- (4) Information on the current employment status of the claimant, if known.
- (5) The court, if any, to which an appeal from the Board decision has been taken.

(6) Other relevant information for the Board’s consideration in determining whether the supersedeas request meets the following standards:

- (i) The petitioner makes a strong showing that it is likely to prevail on the merits.
- (ii) The petitioner shows that, without the requested relief, it will suffer irreparable injury.

(iii) The issuance of a stay will not substantially harm other interested parties in the proceeding.

(iv) The issuance of a stay will not adversely affect the public interest.

(7) A proof of service as specified in § 111.12(e) (relating to filing, service and proof of service), insofar as applicable.

(b) Requests for supersedeas shall be served on all parties.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.1, 35.2, 35.17, 35.190 and 35.225.

#### § 111.22. Filing.

(a) A request for supersedeas from the judge's decision shall be filed with the Board within the time specified in section 423 of the act (77 P. S. § 853).

(b) A request for supersedeas from a Board order shall be filed under the applicable Pennsylvania Rules of Appellate Procedure.

(c) An original request for supersedeas shall be filed. The supersedeas request shall have attached a copy of the judge's decision and order or Board opinion and order from which the supersedeas is requested.

(d) A request for supersedeas shall be served on all the parties and be accompanied by a proof of service as specified in § 111.12(e) (relating to filing, service and proof of service).

(e) Subsections (a)—(d) supersede 1 Pa. Code § 33.15 (relating to number of copies).

#### § 111.23. Answers.

(a) An answer to a request for supersedeas may be filed with the Board within 10 days of service of the request for supersedeas.

(b) An original answer shall be filed.

(c) An answer filed under this subsection shall be served on all parties.

(d) An answer filed under this subsection shall be accompanied by a proof of service as specified in § 111.12(e) (relating to filing, service and proof of service), insofar as applicable.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 33.15 and 35.35 (relating to number of copies; and answers to complaints and petitions).

#### § 111.24. Disposition of request for supersedeas.

(a) The Board may grant the request for supersedeas in whole or in part.

(b) The Board will rule on requests for supersedeas within 30 days of the date of receipt by the Board of the request, or the request shall be deemed denied.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.190 and 35.225 (relating to appeals to agency head from rulings of presiding officers; and interlocutory orders).

### Subchapter D. OTHER PETITIONS

#### § 111.31. Applicability.

This subchapter applies to the following petitions or requests:

(1) A petition under section 306 of the act (77 P. S. § 513).

(2) A petition for appointment of guardian under section 307 of the act (77 P. S. § 542).

(3) A petition alleging a meretricious relationship under section 307 of the act (77 P. S. § 562).

(4) A petition for commutation under section 316 of the act (77 P. S. § 604).

(5) A petition under section 317 of the act (77 P. S. § 603).

(6) A petition for rehearing or reconsideration under section 426 of the act (77 P. S. § 871).

(7) A petition for attorney's fees under section 442 or 501 of the act (77 P. S. §§ 998 and 1021).

#### § 111.32. Form/content.

(a) Petitions and requests shall contain and be accompanied by the following:

(1) A short statement setting forth the reasons and basis for the petition or request.

(2) The facts upon which the petition or request is based.

(3) A specific statement as to the issues of law, if any, involved in the petition or request.

(4) An explanation as to the status of the case, including the status of a pending appeal or petition before a judge, the Board or a court.

(5) The employment status of the claimant.

(6) A proof of service as specified in § 111.12(e) (relating to filing, service and proof of service), insofar as applicable.

(b) Petitions and requests shall be served on all parties and on the judge if the case is pending before a judge.

(c) An original petition and request shall be filed.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 31.5, 33.1—33.4, 33.11, 33.12, 33.15, 33.21—33.23, 35.1, 35.2 and 35.17.

#### § 111.34. Answers to petitions.

(a) An answer to a petition or request may be filed with the Board within 20 days of service of the petition or request.

(b) An original answer shall be filed.

(c) An answer filed shall be served on all parties.

(d) An answer filed shall be accompanied by a proof of service as specified in § 111.12(e) (relating to filing, service and proof of service), insofar as applicable.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 33.15 and 35.35 (relating to number of copies; and answers to complaints and petitions).

## PART VIII. BUREAU OF WORKERS' COMPENSATION

### CHAPTER 131. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE BEFORE WORKERS' COMPENSATION JUDGES

#### Subchapter A. GENERAL PROVISIONS

#### § 131.3. Waiver and modification of rules.

(a) The judge may, for good cause, waive or modify a provision of this chapter, except as otherwise provided in §§ 131.59b(a) and 131.202 (relating to mandatory mediation; and first hearing information and stay), upon motion of a party, agreement of all parties or upon the judge's own motion.

(b) Subsection (a) supersedes 1 Pa. Code §§ 33.61, 35.18, 35.54 and 35.55 and also supersedes 1 Pa. Code Chapter 35, Subchapter D (relating to motions).

**§ 131.5. Definitions.**

(a) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Workers’ Compensation Act (77 P. S. §§ 1—1041.4 and 2501—2708).

*Additional defendant*—An insurance carrier, the Commonwealth or an employer, other than the insurance carrier or employer against which the original petition was filed, joined under this chapter, not including the Uninsured Employers Guaranty Fund.

*Adjudicating judge*—A judge assigned to hold hearings and issue decisions relating to a petition or petitions.

*Board*—The Workers’ Compensation Appeal Board.

*Challenge proceeding*—A proceeding governed by § 131.50a (relating to employee request for special supersedeas hearing under section 413(c) and (d) of the act).

*Claim petition*—A petition filed with the Department under section 410 of the act (77 P. S. § 751).

*Claimant*—An individual who files a petition for, or otherwise receives, benefits under the act or the Disease Law.

*Defendant*—An employer, insurance carrier and the Commonwealth, unless specifically designated individually, and the Uninsured Employers Guaranty Fund, except for purposes of joinder, penalties or assessment of counsel fees under section 440 of the act (77 P. S. § 996).

*Department*—The Department of Labor and Industry of the Commonwealth.

*Department record*—Official copies of documents received by the Department, on forms prescribed by the Department, if forms prescribed by the Department are available, or official copies of documents received by the Department on forms prepared by a party if forms prescribed by the Department are not available, which record transactions between the parties and which are determined by the judge to pertain to the case.

*Director of Adjudication*—The individual specified in section 1402 of the act (77 P. S. § 2502).

*Disease Law*—The Pennsylvania Occupational Disease Act (77 P. S. §§ 1201—1603).

*Insurer*—A workers’ compensation insurance carrier or self-insured employer, as applicable.

*Judge*—A workers’ compensation judge assigned by the Office of Adjudication as provided in sections 401 and 401.1 of the act (77 P. S. §§ 701 and 710) or assigned by the Office of Adjudication to determine a petition filed under the act or the Disease Law.

*Judge manager*—A workers’ compensation judge with management responsibilities appointed under the Civil Service Act (71 P. S. §§ 741.1—741.1005).

*Mandatory mediation*—A mediation conducted by a mediating judge under § 131.59b (relating to mandatory mediation).

*Mediating judge*—A judge assigned to mediate petitions in accordance with sections 401 and 401.1 of the act and this chapter.

*Mediation*—A conference conducted by a judge, having as its purpose an attempt to reconcile any or all disputes under the act or this chapter existing between contending parties. Mediation can be either mandatory or voluntary.

*Office of Adjudication*—The Office of the Department created under section 1401(a) of the act (77 P. S. § 2501(a)).

*Party*—A claimant, defendant, employer, insurance carrier, additional defendant, health care provider and, if relevant, the Commonwealth and the Uninsured Employers Guaranty Fund. An act required or authorized by this chapter, to be done by or to a party, may be done by or to that party’s counsel of record.

*Penalty proceeding*—A proceeding governed by section 435(d) of the act (77 P. S. § 991(d)).

*Records of work environment*—Records and documents relating to work place health, safety, hazards and exposure, including records or documents which may be obtained under the Worker and Community Right-to-Know Act (35 P. S. §§ 7301—7320) and 29 CFR 1901.1—1928.1027 (relating to Occupational Safety and Health Administration, Department of Labor).

*Resolution hearing*—A procedure established by the Office of Adjudication with the sole purpose of providing a venue to present a compromise and release to a judge in an expedited fashion.

*Statement previously made*—A written statement signed or otherwise adopted or approved by the persons making it, or a stenographic, mechanical, electrical, computer-generated or other recording, or transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded. The term does not include statements made by parties which are protected by the attorney-client privilege or which are protected as the work product of counsel.

*Supersedeas*—A temporary stay affecting a workers’ compensation case.

*UEGF—Uninsured Employers Guaranty Fund*—The special fund established under Article XVI of the act (77 P. S. §§ 2701—2708).

*UEGF claim petition*—A petition filed with the Department under section 1604 of the act (77 P. S. § 2704)

*Voluntary mediation*—A mediation conducted by a judge under § 131.59a (relating to voluntary mediation) upon the agreement of the contending parties and the judge.

*Writing*—Includes electronic communications in a format as prescribed by the Department.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.3 and 33.33 (relating to definitions; and effect of service upon an attorney).

**Subchapter B. TIME**

**§ 131.11. Filing, service and proof of service.**

(a) Whenever filing is required by this chapter, it is deemed complete upon one of the following:

- (1) Delivery in person.
- (2) If by electronic submission, upon receipt at the electronic address and in a format as prescribed by the Department and published in the *Pennsylvania Bulletin* or the Department’s web site located at [www.dli.state.pa.us](http://www.dli.state.pa.us).
- (3) If by mail, upon deposit in the United States mail, properly addressed, postage or charges prepaid, as evidenced by one of the following:
  - (i) United States Postal Service postmark.
  - (ii) United States Postal Service Certificate of Mailing (USPS Form 3817 or other similar United States Postal



Service form from which the date of deposit can be verified), enclosed with the filing or submitted separately to the Department.

(4) A filing may be delivered by a common carrier of property which is subject to the authority of the Pennsylvania Public Utility Commission or the United States National Surface Transportation Board. The date of filing is the date the document was delivered to the common carrier, as established by a document or other record prepared by the common carrier in the normal course of business. If the date of delivery to the common carrier cannot be determined by the documents in the record, the date of filing will be the date of its receipt by the Department.

(b) Whenever service is required by this chapter, it is deemed complete upon one of the following:

(1) Delivery in person.

(2) If by electronic submission, upon receipt and in a format as prescribed by the Department and published in the *Pennsylvania Bulletin* or the Department's web site located at [www.dli.state.pa.us](http://www.dli.state.pa.us).

(3) Except as provided in § 131.81(b) (relating to subpoenas), if by mail, upon deposit in the United States Mail properly addressed, postage or charges prepaid and accompanied by proof of service.

(c) Any notice or other written communication required to be served upon or furnished to a party shall also be served upon or furnished to the party's attorney in the same manner as it is served upon the party.

(d) Whenever a proof of service is required by this chapter, the proof of service must contain the following:

(1) A statement of the date of service.

(2) The names of the judge and others served.

(3) The mailing address, the applicable zip code and the manner of service on the judge and others served, and, if applicable, the electronic address to which service was made.

(e) Unless otherwise specifically provided in this chapter, whenever the filing or service is required to be made upon the Department, it shall be made to an address as may be published in the *Pennsylvania Bulletin* and on the Department's web site located at [www.dli.state.pa.us](http://www.dli.state.pa.us). Electronic filing and service on the Department shall be at the electronic address and in a format as prescribed by the Department and published in the *Pennsylvania Bulletin* and on the Department's web site located at [www.dli.state.pa.us](http://www.dli.state.pa.us).

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 31.5, 31.11, 31.13, 31.14, 31.26, 33.32 and 33.34—33.36.

### Subchapter C. FORMAL PROCEEDINGS

#### GENERAL

#### § 131.21. Identifying number.

(a) Pleadings, documents and other submittals filed in a proceeding shall be identified by an identifying number assigned by the Department.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.5, 33.1 and 33.51 (relating to communications and filings generally; title; and docket).

#### PLEADINGS

#### § 131.32. Petitions except petitions for joinder and challenge proceedings.

(a) Petitions shall be in the form prescribed by the Department.

(b) Any petition, filed in accordance with this chapter, shall be filed with the Department as prescribed by the form. If there is no applicable Department petition form available, an original of the petition shall be filed with the Department. The Department will serve a notice of assignment specifying the judge to whom the petition has been assigned. The notice will be served on the parties named in the petition.

(c) Concurrently with filing the petition with the Department, the moving party shall serve a copy of the petition on all other parties, including the insurance carrier, if the insurance carrier is known, and on the attorneys of all other parties, if the attorneys are known.

(d) The material facts on which a cause of action or defense is based shall be stated in a concise and summary form.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 31.26, 33.15, 33.21—33.23, 33.31, 33.32, 33.37, 35.1, 35.2, 35.5—35.7, 35.9—35.11, 35.14, 35.17—35.20, 35.23, 35.24 and 35.27—35.32.

#### § 131.33. Answers except answers to petitions for joinder and challenge proceedings.

(a) Answers to claim petitions shall be filed in accordance with section 416 of the act (77 P. S. § 821) within 20 days after the date of assignment to the judge. Except petitions for joinder under § 131.36 (relating to joinder), and challenge proceedings which require no answer, answers to all other petitions may be filed within 20 days after the date of assignment to the judge.

(b) Any answer filed in accordance with this chapter shall be filed with the Department as prescribed on the answer form. If there is no applicable Department answer form available, an original of the answer shall be filed with the Department.

(c) Concurrently with filing the answer, the responding party shall serve a copy of the answer on unrepresented parties and on counsel of record.

(d) An answer shall admit or deny each averment of fact in the petition or any part of the averment to which it is responsive. A party denying only a part of the averment shall specify so much of it as is admitted and shall deny the remainder. Where applicable, admissions and denials in an answer shall refer to the specific paragraph in which the averment admitted or denied is set forth.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 33.15, 33.37, 35.35—35.41, 35.54, 35.55 and 35.161 and also supersede 1 Pa. Code Chapter 35, Subchapter D (relating to motions).

#### § 131.36. Joinder.

(a) A party desiring to join another defendant to assert a claim relevant to the pending petition may do so as a matter of right by filing a petition for joinder.

(b) A petition for joinder shall set forth the identity of employers and insurance carriers sought to be joined and the reasons for joining a particular employer or insurance carrier as well as the specific facts and the legal basis for the joinder.

(c) The petition for joinder shall have attached to it copies of petitions and answers previously filed and a list of the dates and locations of all prior hearings held and depositions taken.

(d) The petition for joinder form shall be filed with the Department no later than 20 days after the first hearing at which evidence is received regarding the reason for

which joinder is sought, unless the time is extended by the judge for good cause shown.

(e) An answer to a petition for joinder shall be filed in accordance with section 416 of the act (77 P.S. § 821) within 20 days after the date of assignment by the Department to the judge and may include a motion to strike.

(f) A party filing a petition for joinder or an answer to it shall serve unrepresented parties and counsel of record.

(g) A proof of service shall be attached to the petition for joinder or answer.

(h) After joinder, the original petition shall be deemed amended to assert a claim of the claimant against an additional defendant. The additional defendant is liable to any other party as the judge orders. The additional defendant shall have the same rights and responsibilities under this chapter as the original defendant.

(i) The judge may strike the petition for joinder, and the judge may order the severance or separate hearing of a claim presented therein, or as a result of the joinder.

(j) The judge will issue an order when the motion to strike a petition for joinder is granted.

(k) An order to strike a petition for joinder does not preclude or delay further proceedings before the judge.

(l) Subsections (a)—(k) supersede 1 Pa. Code §§ 31.5, 33.41, 33.42, 35.11, 35.35, 35.40, 35.48—35.51, 35.54 and 35.55 and also supersede 1 Pa. Code Chapter 35, Subchapter D (relating to motions).

**SUPERSEDEAS**

**§ 131.50. Return to work—modification or suspension.**

(a) If an employee returns to work, the insurer may modify or suspend the workers' compensation benefits.

(b) The insurer shall complete and file the form prescribed by the Department. The form shall be provided to the employee, employee's counsel, if known, and the Department within 7 days of the effective date of the suspension or modification of the workers' compensation benefits.

(c) When the insurer previously modified or suspended the employee's benefits under sections 413(c) or 413(d) of the act (77 P.S. §§ 774.2 and 774.3), to effectuate a subsequent modification or suspension of the employee's workers' compensation benefits, the insurer shall file the form specified in subsection (b), indicating the change in the employee's wages and corresponding change in the employee's workers' compensation benefits.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 33.33 (relating to effect of service upon an attorney).

**HEARING PROCEDURE**

**§ 131.52. First hearing procedures.**

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(e) The parties shall identify and provide, if not otherwise electronically available to the judge, all documents required by law to be filed with the Department and which are relevant to issues in dispute with the same injury date and pertaining to the same claim. The judge will place those documents in evidence along with any other documents required to be filed by law with the Department or prior judges and which the judge deems

relevant to the proceeding. The judge and the employee may not introduce the First Report of Injury into evidence.

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**§ 131.53b. Bifurcation and motions for disposition of a petition.**

(a) The judge may, upon request or upon the judge's own motion, consider bifurcation of issues to promote expeditious resolution of cases.

(b) A motion which may result in disposition of a petition may be filed at any time. A response shall be made within a time specified by the judge. The judge will issue an order granting or denying the motion, or will provide reasons why the motion will not be ruled upon, within 30 days of when the response is due. If the motion will not be ruled upon, the judge will articulate in writing or on the record the reasons for not ruling on the motion. Pendency of the motion will not operate as a stay.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.54, 35.55, 35.177—35.180 and 35.225.

**§ 131.55. Attorney fees and costs.**

(a) In all cases, claimant's counsel shall submit a copy of the fee agreement, and a copy of any statement or claim for disbursements, costs and expenses. No agreement or claim for fees or other disbursements, costs or expenses by claimant's counsel shall be valid, and no payments shall be made pursuant thereto, unless approved for payment by the judge before whom the matter is heard or by the Board as provided by law. Except as otherwise approved, no further fee, cost or expense is to be charged.

(b) Under section 440 of the act (77 P.S. § 996), in a disputed claim under the act when the employer or insurer has contested liability in whole or in part, the employee or a dependent, in whose favor the proceeding has been finally decided, will be awarded attorney fees and costs against the employer or insurer, unless the employer or insurer had a reasonable basis for contesting the petition.

(c) Claimant's counsel may file an application for quantum meruit fees at or before the filing of proposed findings of fact, proposed conclusions of law and briefs, and if there are no proposed findings of fact, proposed conclusions of law or briefs requested, at or before the close of the record. The application shall detail the calculation of the fee requested, shall itemize the services rendered and time expended and shall address all factors enumerated in section 440 of the act in support of the application.

(d) Within 15 days after service of the application for quantum meruit fees, an opposing party may file a response to the application detailing the objections to the fee requested.

(e) A decision on the fee award will be made based on the record of the case and, if filed, the application and response. If deemed appropriate by the judge, a hearing may be held and evidence presented.

(f) The application and response will be made exhibits of record and shall be served on unrepresented parties and counsel of record as provided in § 131.34(a) (relating to other filings).

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 35.1 and 35.2 (relating to applications generally; and contents of applications).

**§ 131.57. Compromise and release agreements.**

(a) Under section 449 of the act (77 P. S. § 1000.5), upon or after filing a petition, the parties may engage in a compromise and release of any and all liability which is claimed to exist under the act on account of injury or death, subject to approval by the judge after consideration at a hearing.

(b) Proposed compromise and release agreements, including the stipulations of the parties, shall be recorded on a form prescribed by the Department. The parties may attach additional information to the form if circumstances so require.

(c) If another petition is pending before a judge at the time of the agreement of the parties to compromise and release the claim, any party may, in writing, request the judge to schedule a hearing on the proposed compromise and release agreement. The written request will be treated as an amendment of the pending matter to a petition to seek approval of a compromise and release agreement.

(d) The judge will expedite the convening of a hearing on the compromise and release agreement. The judge will circulate a written decision on the proposed compromise and release agreement within 30 days after the hearing. This subsection does not apply if a resolution hearing has been requested in accordance with § 131.60 (relating to resolution hearings).

(e) Subsections (a)—(d) supercede 1 Pa. Code §§ 33.42, 35.40, 35.41, 35.48—35.51, 35.101—35.106, 35.111—35.116, 35.121—35.128 and 35.155.

**§ 131.58. Informal conferences.**

(a) Under section 402.1 of the act (77 P. S. § 711.1), the parties upon, or after, filing a petition may agree to participate in an informal conference.

(b) All parties shall agree to participate in the informal conference.

(c) The request for the informal conference shall be recorded on a form prescribed by the Department and filed with the judge to whom the pending petition has been assigned.

(d) If no petition is pending, a petition and corresponding request for the informal conference shall be filed with the Department on a form prescribed by the Department.

(e) The informal conference will be governed by the instructions and procedures specified on the form prescribed by the Department and by section 402.1 of the act.

(f) The request shall be served on all parties and the adjudicating judge.

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 31.21—31.23 and 35.111—35.116.

**§ 131.60. Resolution hearings.**

(a) A resolution hearing must be requested in writing.

(b) Counsel for either party, or any unrepresented party, may request a resolution hearing at any time after all parties are prepared to proceed within the time limits prescribed by the act and this rule for resolution hearings.

(c) If a petition is pending before a judge, the request for a resolution hearing must be directed to the assigned judge.

(d) If a petition is not pending before a judge, the request for a resolution hearing must be directed to the

Judge Manager for the judge's office serving the county of the claimant's residence. If the claimant resides outside of this Commonwealth, the request must be directed to the Judge Manager for the judge's office most proximate to the claimant's residence. The Judge Manager will assign a judge to conduct the resolution hearing.

(e) The assigned judge's office will schedule the resolution hearing within 14 business days of receiving the request for a resolution hearing.

(f) The Judge Manager may reassign any case from one judge to another to ensure compliance with the resolution hearing requirements of sections 401 and 401.1 of the act (77 P. S. §§ 701 and 710). The Judge Manager will notify both judges of the reassignment.

(g) The judge conducting the resolution hearing will require proof that a petition has been filed with the Department under § 131.11 (relating to filing, service and proof of service), and will make the proof a part of the record. Upon receiving the proof, the judge shall proceed with the hearing and circulate a final decision within 5 business days of the hearing.

(h) The assigned judge need not comply with the procedures in this rule if any party is unable to proceed within the time limits established by the act for resolution hearings.

(i) Subsections (a)—(h) supersede 1 Pa. Code §§ 31.21—31.23, 35.48—35.51, 35.111—35.116, 35.185, 35.201—35.207 and 35.226.

**EXCHANGE OF INFORMATION AND DEPOSITIONS AND DISCOVERY****§ 131.63. Time for taking oral depositions.**

(a) An oral deposition may be taken at any time subsequent to 30 days after the date of assignment of the petition by the Department.

(b) Oral depositions shall be completed so as not to delay unreasonably the conclusion of the proceedings, and within a time schedule agreed upon by the parties and approved by the judge provided that medical depositions shall be completed as specified in subsections (c) and (e).

(c) The deposition of a medical expert testifying for the moving party shall be taken within 90 days of the date of the first hearing scheduled unless the time is extended or shortened by the judge for good cause shown. The deposition of a medical expert testifying for the responding party shall be taken within 90 days of the date of the deposition of the last medical expert testifying on behalf of the moving party.

(d) A party wishing to present depositions for rebuttal or surrebuttal shall notify the judge in writing within 21 days after the conduct of the hearing or deposition at which the testimony to be rebutted or surrebutted has been given.

(e) Depositions for rebuttal or surrebuttal shall be taken in accordance with § 131.53(e) (relating to procedures subsequent to the first hearing).

(f) If a party fails to abide by the time limits established by this section for submitting evidence, the evidence will not be admitted, relied upon or utilized in the proceedings or the judge's rulings.

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 35.145—35.152, 35.161 and 35.162.

**SUBPOENAS**

**§ 131.81. Subpoenas.**

(a) Upon written or electronic request of a party or counsel of record in a pending proceeding, the judge will issue a subpoena to compel the attendance of a witness or require the production of books, documents, records, CD-ROMs, diskettes, other digital recordings or other things relevant to the proceeding at a scheduled hearing or deposition within the scope of, and scheduled under, this chapter. The party requesting a subpoena shall complete the subpoena and serve the judge with the original written request and shall serve a copy of the written request on unrepresented parties and counsel of record as provided in § 131.34(a) (relating to other filings).

(b) Subpoenas may not be served until 10 days from the date of issuance unless waived by agreement of the parties.

(c) The party, counsel of record or their respective agents requesting a subpoena shall serve the subpoena that the judge has issued upon the witness or person subpoenaed and upon opposing counsel.

(1) Service shall be made by one of the following:

(i) Personal service under the Pennsylvania Rules of Civil Procedure.

(ii) Any form of mail requiring a return receipt postage prepaid, restricted delivery or as provided in § 131.11(b) (relating to filing, service and proof of service).

(2) The fee for 1 day's attendance and roundtrip mileage shall be tendered upon demand at the time the person is served with the subpoena. If a subpoena is served by mail, a check in the amount of 1 day's attendance and round-trip mileage shall be enclosed with the subpoena. The fee for 1 day's attendance and roundtrip mileage is as prescribed in 42 Pa.C.S. §§ 5901—5988 (relating to depositions and witnesses).

(d) Upon the filing of written objections by a person served with a subpoena or a party, the judge may, after notice to counsel of record and unrepresented parties, promptly quash or limit the scope of a subpoena issued or served.

(e) If the person fails to appear, or has given notice of the intention not to appear, as required by a subpoena duly served, the judge will upon request of a party, communicate to the witness the requirements of the act that the person so appear and advise the person of the enforcement provisions under section 436 of the act (77 P. S. § 992).

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 35.139 and 35.142 (relating to fees of witnesses; and subpoenas).

**STIPULATIONS**

**§ 131.91. Stipulations of fact.**

(a) Stipulations of fact may be filed with the judge to whom the case has been assigned.

(b) The judge may issue a decision based on stipulations of fact, if the judge is satisfied that:

(1) The stipulations of fact are fair and equitable to the parties involved.

(2) The claimant understands the stipulations of fact and the effect of the stipulations of fact on future payments of compensation and medical expenses.

(3) The stipulation shall be signed and dated by the claimant, all counsel participating in the agreement and the employer, when unrepresented.

(4) The stipulation states which petitions are being resolved and which petitions are not being resolved.

(5) The stipulation states whether each petition should be withdrawn, granted or dismissed, and whether the parties are requesting an interlocutory or a final order.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.155 (relating to presentation and effect of stipulations).

**Subchapter D. PROCEEDINGS INVOLVING THE UEGF**

- Sec. 131.201. Petitions.
- 131.202. First hearing information and stay.
- 131.203. Hearing procedures.
- 131.204. UEGF subpoenas and interrogatories.

**§ 131.201. Petitions.**

(a) All references to petitions in this subchapter are as defined under § 131.5 (relating to definitions).

(b) Subsection (a) supersedes 1 Pa. Code § 31.3 (relating to definitions).

**§ 131.202. First hearing information and stay.**

(a) At the first hearing on a claim petition where no UEGF claim petition has been filed and there is either no insurer listed on the notice of assignment or the listed insurer files a motion to dismiss for lack of coverage, the judge will inform the claimant on the record of the existence of the UEGF and give the claimant information about the UEGF, as provided by the Office of Adjudication.

(b) If the claimant informs the judge on the record that he may wish to file a UEGF claim petition, the judge will stay the proceeding in the claim petition until 20 days after the assignment of the UEGF claim petition. The stay may not apply to the exchange of information referenced in § 131.61 (relating to exchange of information).

(c) If no UEGF claim petition is filed within 45 days of the first hearing, the claim petition will proceed against the uninsured employer.

(d) If the claimant informs the judge on the record that he does not wish to file a UEGF claim petition, testimony may be taken as directed by the judge.

(e) In the interests of judicial economy and due process to have all parties joined as soon as possible, and in recognition of the uniqueness of the UEGF from other types of workers' compensation litigation, this section cannot be waived or modified as otherwise provided in § 131.3 (relating to waiver and modification of rules).

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 33.61, 35.18, 35.123—35.128, 35.187 and 35.188.

**§ 131.203. Hearing procedures.**

(a) If the UEGF requests live testimony of witnesses before the judge, the judge will schedule such hearings to accommodate the request, unless denied for good cause shown and stated on the record.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.101—35.106, 35.111—35.116, 35.121—35.128, 35.137, 35.138, 35.155 and 35.161—35.169.

**§ 131.204. UEGF subpoenas and interrogatories.**

(a) The judge may issue subpoenas, order testimony or compel the completion of written interrogatories with respect to the alleged uninsured employer's financial history, condition or ability to pay an award.

(b) The judge may compel the attendance of all parties at mediation.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.111—35.116, 35.137—35.147, 35.150, 35.161, 35.162, 35.187 and 35.188.

[Pa.B. Doc. No. 14-2617. Filed for public inspection December 19, 2014, 9:00 a.m.]

## Title 52—PUBLIC UTILITIES

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 5 ]

[ L-2014-2406251 ]

#### Electronic Access to Pre-Served Testimony

The Pennsylvania Public Utility Commission (Commission), on August 21, 2014, adopted a final rulemaking order proposing regulations regarding procedures to be followed for the electronic submission of testimony.

##### *Executive Summary*

On January 10, 2013, the Commission issued an Implementation Order regarding Electronic Access to Pre-Served Testimony at Docket No. M-2012-2331973 which proposed to require parties, serving pre-served testimony in certain proceedings, to comply with certain electronic filing requirements. On March 20, 2014, the Pennsylvania Public Utility Commission (Commission) issued a Proposed Rulemaking Order proposing to implement new regulations to specifically require parties serving pre-served testimony to, within thirty days after the final hearing in an adjudicatory proceeding, either electronically file (eFile) with or provide to the Commission's Secretary's Bureau a compact disc (CD) or other technology as prescribed by the Commission containing all testimony furnished to the court reporter during the proceeding.

The Commission proposed to implement these new regulations in order to allow Commission staff, as well as parties of record in an adjudicatory proceeding, to have electronic access to parties' public pre-served testimony through the Commission's case and document management system. Based upon our review and consideration of the comments filed in response to our March 20, 2014 Proposed Rulemaking Order by the PECO Energy Company, the Office of Consumer Advocate and the Independent Regulatory Review Commission, the Commission proposes to adopt the final regulations as set forth in Annex A of the Final Rulemaking Order.

Public Meeting held  
August 21, 2014

*Commissioners Present:* Robert F. Powelson, Chairperson; John F. Coleman, Jr., Vice Chairperson; James H. Cawley; Peamela A. Witmer; Gladys M. Brown

*Electronic Access to Pre-Served Testimony;*  
*Doc. No. L-2014-2406251*

#### Final Rulemaking Order

##### *By the Commission:*

On March 20, 2014, the Pennsylvania Public Utility Commission (Commission) issued a Proposed Rulemaking Order proposing to implement new regulations to require parties serving pre-served testimony to, within thirty days after the final hearing in an adjudicatory proceed-

ing, either electronically file (eFile) with or provide to the Commission's Secretary's Bureau a compact disc (CD) or other technology as prescribed by the Commission containing all testimony furnished to the court reporter during the proceeding. The Commission proposed to implement these new regulations in order to allow Commission staff, as well as parties of record in an adjudicatory proceeding, to have electronic access to parties' public pre-served testimony through the Commission's case and document management system. Based upon our review and consideration of the comments filed by the PECO Energy Company (PECO), the Office of Consumer Advocate (OCA) and the Independent Regulatory Review Commission (IRRC), we shall adopt the final regulations as set forth in Annex A to this Order.

##### *Discussion*

In response to our proposed regulations set forth in the March 20, 2014 Proposed Rulemaking Order and Annex A thereto, the Commission received formal comments from PECO, the OCA and IRRC.<sup>1</sup> In its comments, PECO commends the Commission in its efforts to find new and useful ways to take advantage of the Commission's eFiling system through providing electronic access to pre-served testimony.<sup>2</sup> PECO specifically comments that utilizing the Commission's eFiling system effectively affords interested parties proper and easy access to documents, with pre-served testimony being a prime example of that documentation.

The OCA also generally supports the Commission's proposed regulations. Through its comments, the OCA seeks clarification of the certain procedures to be followed for the electronic submission of pre-served testimony. The OCA first comments that Section 5.412a(b)(3) of the proposed regulations prescribes the labeling of pre-served testimony submitted to the Commission. The OCA, however, notes that there can be additional pieces of pre-served testimony that are not addressed in this section of the proposed regulations, such as "supplemental direct testimony" and "written rejoinder testimony." The Commission agrees that there are additional pieces of pre-served testimony that are not specifically set forth in Section 5.412a(b)(3) of the proposed regulations. As the purpose of this proposed section is to ensure that parties consistently label their pre-served testimony filed with the Commission, the Commission is merely providing examples of its preferred formatting for the labeling of pre-served testimony. Accordingly, the Commission will revise Section 5.412a(b)(3) of the proposed regulations to state as follows:

(3) *Labeling of electronically submitted testimony.*

Pre-served testimony electronically submitted to the Commission shall be labeled consistent with the following examples:

(i) "\_\_\_ St. No. \_\_\_ Direct Testimony of \_\_\_\_\_."

(ii) "\_\_\_ St. No. \_\_\_-R Rebuttal Testimony of \_\_\_\_\_."

(iii) "\_\_\_ St. No. \_\_\_-SR Surrebuttal Testimony of \_\_\_\_\_."

In its comments, IRRC echoes the comments of the OCA in that there may be additional pieces of pre-served testimony that may be electronically filed which were not originally addressed in Section 5.412a(b)(3) of the pro-

<sup>1</sup> We also received informal internal comments from the Commission's Administrative Law Judge Susan D. Colwell.

<sup>2</sup> Although PECO filed its comments in response to the March 20, 2014 Proposed Rulemaking Order after the filing deadline, the Commission considered these comments as no party or entity, including the Commission, were prejudiced by this delay.

posed regulations. Because we have revised this section of our proposed regulation to clearly indicate that pre-served testimony must merely be labeled consistent with the examples set forth therein, the Commission believes that it has satisfied the OCA's and IRRC's concerns regarding the labeling of pre-served testimony documents.

Next, the OCA comments that Section 5.412a(c) of the proposed regulations requires parties to continue to submit two paper copies of the electronically submitted pre-served testimony to the court reporter at the hearing. In its comments, the OCA suggests that only one paper version of the electronically submitted pre-served testimony be provided to the court reporter. Upon further review of the electronic submission of pre-served testimony process, the Commission's Secretary's Bureau has confirmed that the Commission only requires one paper version of the pre-served testimony it receives from the court reporter. Therefore, the Commission will revise Section 5.412a(c) of the proposed regulations to require only one paper version of the electronically submitted pre-served testimony to be provided to the court reporter at hearing.

On a related note, IRRC points out that subsection (c) of the proposed regulations pertains to the submission of paper copies of pre-served testimony to the court reporter at hearing and asks why this provision is located under proposed Section 5.412a (relating to the electronic submission of pre-served testimony) rather than under Section 5.412 (relating to written testimony). We note that Section 5.412(g) of the Commission's regulations refers to the requirement for parties to provide copies of testimony to the court reporter at hearing when filing written testimony with the Commission whereas proposed Section 5.412a(c) requires parties to provide a copy of pre-served testimony to the court reporter at hearing when electronically submitting pre-served testimony to the Commission. Accordingly, by our proposed regulations regarding electronic access to pre-served testimony, the Commission has made a distinction between certain testimony documents, which may still be filed via hard copy, and pre-served testimony documents, which must be filed electronically. Accordingly, the Commission believes that the requirement to provide a copy of pre-served testimony to the court reporter at hearing when filing such testimony with the Commission should remain under proposed Section 5.412a as this section specifically relates to electronic filing of pre-served testimony, as distinguished from the filing of written testimony.<sup>3</sup> We will, however, revise Section 5.412a(c) of the proposed regulations to clarify that such requirements regarding the submission of a paper copy of pre-served testimony to the court reporter at hearing are specifically applicable when electronically filing pre-served testimony with the Commission.

The OCA's next comment concerns access to pre-served testimony to the public through the Commission's website. In its May 20, 2014 Proposed Rulemaking Order, the Commission proposed that both Commission staff and all parties of record in an adjudicatory proceeding will have electronic access to pre-served testimony. The Commission specifically noted that the Commission's advisory staff is aware of the need to consult the transcript for purposes of determining which electronically submitted testimony has been admitted into the official record. Similarly, the Commission is confident that parties of record in an adjudicatory proceeding are equally aware of the need for

such consultation. However, while the Commission is confident that Commission staff and parties of record in an adjudicatory proceeding are aware of the need to consult the transcript for purposes of determining which electronically submitted testimony was admitted into the official record, the Commission is not certain that the public is similarly aware of the need for such consultation. Accordingly, the Commission did not propose to extend electronic access to pre-served testimony to the public at this time.

In its comments, the OCA requests public access to electronically submitted pre-served testimony that was admitted into the record through the Commission's website. The OCA specifically comments that if electronically submitted pre-served testimony is shown on the Commission's website with any strikeouts, corrections or modifications in place, then the public would not need to refer to the transcript in order to know what the final version of the testimony admitted into the record contains. However, as discussed in the March 20, 2014 Proposed Rulemaking Order, because presiding officers of the Commission maintain different practices regarding the submission of testimony containing words and/or provisions that have been modified or stricken at hearing, the testimony required to be electronically submitted to the Commission must match exactly the copy of the testimony that the presiding officer has required to be submitted to the court reporter at hearing. Accordingly, if a presiding officer does not require parties to make modifications to testimony before submitting the testimony to the court reporter (even though portions of that testimony are stricken during the hearing), that party will electronically submit to the Commission a clean copy of the testimony containing the stricken material.<sup>4</sup>

As a result of this requirement for parties to file an exact copy of the pre-served testimony that was submitted to the court reporter at hearing, the electronically submitted testimony that is submitted to the Commission which would be published for public viewing on the Commission's website may contain material which was not admitted into the official record. As the Commission is not able to provide the public with electronic access to hearing transcripts (per our court reporting contracts) in order for the public to determine which material was admitted into the official record, it is possible that the public might be viewing testimony that was not admitted into the record. As viewing testimony which was not admitted into the official record in a proceeding will likely be misleading and cause confusion to the public, the Commission does not agree with the OCA that electronically submitted testimony should be published on the Commission's website for public viewing at this time.<sup>5</sup>

In its comments, IRRC has specifically asked the Commission to explain how "barring" the public's electronic access to pre-served testimony is in the public's interest. It is important to note, however, that the Commission has never provided the public with electronic access to pre-served testimony documents through its website. Accordingly, the Commission is not taking away electronic access to pre-served testimony documents from the public, but rather providing electronic access to the Commission staff and parties of record in an adjudicatory proceeding for convenience purposes. In addition, elec-

<sup>4</sup> When reviewing this type of electronically submitted testimony, both Commission staff and parties of record are provided with copies of the hearing transcript in order to appropriately determine which testimony has been admitted into the official record.

<sup>5</sup> Additionally, the Commission does not currently have the resources required for its staff to manually modify all electronically submitted pre-served testimony to ensure such testimony contains only material which was admitted into the official record (by reviewing all transcript modifications) before making this testimony available to the public on the Commission's website.

<sup>3</sup> By separate rulemaking, the Commission intends to propose the future revision of Section 5.412(g) of our regulations to require parties to submit only one paper original, rather than two paper copies, of written testimony documents filed with the Commission to the court reporter at hearing for consistency with the requirements set forth in this Final Rulemaking Order.

tronic access to these documents by the public from the Commission's website could result in pre-served testimony documents containing text that has been subsequently stricken to be widely distributed in error. Thus, the benefit of immediate website access to the public must be measured against the detriment of distributing pre-served testimony documents containing stricken material.

Although the public will not be provided with electronic access to these documents, the public can continue to access pre-served testimony documents in paper form (along with the hearing transcripts) through the Commission's Secretary's Bureau. As mentioned previously, the Commission is not permitted to place hearing transcripts provided by the court reporter on our website for public viewing. Therefore, the Commission believes that it is in the best interest of the public to continue to allow the public to access pre-served testimony documents in paper form (along with the transcripts) through the Commission's Secretary's Bureau rather than causing confusion by providing the public with electronic access to pre-served testimony documents without having electronic access to hearing transcripts.

In its comments, the OCA also asks how parties of record with Commission eFiling accounts would be able to access pre-served testimony on the Commission's website. However, the only documents placed on the Commission's website are those available for public viewing. As previously mentioned, the Commission is not providing access to electronically submitted pre-served testimony to the public at this time. Accordingly, parties of record may only obtain electronic access to parties' electronically submitted pre-served testimony through the Commission's case and document management system.

In its comments, IRRC asks that the Commission incorporate certain details contained in footnotes in the March 20, 2014 Proposed Rulemaking Order into our proposed regulations regarding the electronic submission of pre-served testimony so that parties are better able to meet the requirements for the submission of such testimony. Specifically, IRRC first requests that we explain in further detail how parties should revise testimony that has been stricken and/or modified at hearing prior to electronically submitting the testimony to the Commission. To address the specific details of these requirements, we will add subsections (b)(2)(i) and (ii) to our proposed regulations. Second, IRRC requests that we specifically discuss the types of documents excluded from our proposed electronic submission requirements. The Commission will specifically set forth the documents excluded from our proposed electronic submission requirements by adding an additional sentence to the end of Section 5.412a(b) of our proposed regulations. Third, IRRC requests that the Commission specifically provide in our proposed regulations that in order to view electronically submitted testimony and to receive action alerts that testimony has been electronically submitted to the Commission, parties must have an eFiling account with the Commission. To inform parties that they must have an eFiling account to view such testimony and to receive daily action alerts that such testimony has been submitted to the Commission, we will add subsection (f) to our proposed regulations.

Finally, IRRC requests that the Commission include the anticipated fiscal impact associated with the implementation of our proposed electronic submission of pre-served testimony regulations on the Commission itself. The Commission will include an analysis of such fiscal impact

on the Regulatory Analysis Form submitted to IRRC along with this Final Rulemaking Order.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 1, 2014, the Commission submitted a copy of the notice of proposed rulemaking, published at 44 Pa.B. 2868 (May 17, 2014), to IRRC and the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Commission has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 5, 2014, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 6, 2014, and approved the final-form rulemaking.

#### *Conclusion*

Requiring parties to, within thirty days after the final hearing in an adjudicatory proceeding (unless such time period is otherwise modified by the presiding officer), either eFile with or provide to the Secretary's Bureau a CD (or other prescribed technology) containing all testimony furnished to the court reporter during the proceeding will accommodate the need to provide Commission staff and parties of record electronic access to pre-served testimony through the Commission's case and document management system. The regulations contained in Annex A to this Order set forth the specific procedures to be followed for the electronic submission of pre-served testimony. The Commission, therefore, formally adopts the final regulations as set forth in Annex A to this Order.

Accordingly, under sections 332, 333 and 501 of the Public Utility Code (66 Pa.C.S. §§ 332, 333 and 501); and sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 745.5 of the Regulatory Review Act (71 P. S. § 745.5) and section 612 of The Administrative Code of 1929 (71 P. S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we will adopt as final the regulations as set forth in Annex A; *Therefore,*

#### *It Is Ordered That:*

1. The regulations of the Commission, 52 Pa. Code Chapter 5, are amended by adding § 5.412a and amending § 5.412 to read as set forth in Annex A.
2. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.
3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.
4. The Secretary shall submit this order and Annex A for review by the designated standing committees of both houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.

5. The Secretary shall duly certify this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. These regulations shall become effective upon publication in the *Pennsylvania Bulletin*.

7. This order and Annex A be posted on the Commission's website.

8. A copy of this order and Annex A shall be served on the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and all parties who commented on the March 20, 2014 Proposed Rulemaking Order.

9. The contact person for legal matters for this final rulemaking is Krystle J. Sacavage, Assistant Counsel, Law Bureau, (717) 787-5262. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597.

ROSEMARY CHIAVETTA,  
Secretary

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 7424 (November 22, 2014).)*

**Fiscal Note:** Fiscal Note 57-303 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PUBLIC UTILITY COMMISSION**

**Subpart A. GENERAL PROVISIONS**

**CHAPTER 5. FORMAL PROCEEDINGS**

**Subchapter E. EVIDENCE AND WITNESSES**

**WITNESSES**

**§ 5.412. Written testimony.**

(a) *General.* Use of written testimony in Commission proceedings is encouraged, especially in connection with the testimony of expert witnesses. Written direct testimony is required of expert witnesses testifying in rate cases.

(b) *Use.* The presiding officer may direct that expert testimony to be given upon direct examination be submitted as prepared written testimony. A reasonable period of time will be allowed to prepare written testimony.

(c) *Rules regarding use.* Written testimony is subject to the same rules of admissibility and cross-examination of the sponsoring witness as if it were presented orally in the usual manner.

(d) *Cross-examination.* Cross-examination of the witness presenting written testimony shall proceed at the hearing at which testimony is authenticated if service of the written testimony is made upon each party of record at least 20 days prior to the hearing, unless the presiding officer for good cause otherwise directs. In a rate proceeding, the presiding officer or the Commission will establish the schedule for the filing and authentication of written testimony, and for cross-examination by other parties.

(e) *Form.* Written testimony must normally be prepared in question and answer form, include a statement of the qualifications of the witness and be accompanied by exhibits to which it relates. A party offering prepared

written testimony shall insert line numbers in the left-hand margin on each page. A party should also use a logical and sequential numbering system to identify the written testimony of individual witnesses.

(f) *Service.* Written testimony shall be served upon the presiding officer and parties in the proceeding in accordance with the schedule established by this chapter. At the same time the testimony is served, a certificate of service for the testimony shall be filed with the Secretary. Pre-served testimony furnished to the court reporter during an adjudicatory proceeding before the Commission shall be filed with the Commission as required under § 5.412a (relating to electronic submission of pre-served testimony).

(g) *Copies.* At the hearing at which the testimony is authenticated, counsel for the witness shall provide two copies of the testimony to the court reporter.

(h) *Supersession.* Subsections (a)—(g) supersede 1 Pa. Code §§ 35.138, 35.150 and 35.166 (relating to expert witnesses; scope and conduct of examination; and prepared expert testimony).

**§ 5.412a. Electronic submission of pre-served testimony.**

(a) *General requirement for electronic submission.* A party serving pre-served testimony in proceedings pending before the Commission under § 5.412(f) (relating to written testimony) is required, within 30 days after the final hearing in an adjudicatory proceeding, unless the time period is otherwise modified by the presiding officer, to electronically file with, under § 1.32(b) (relating to filing specifications), or provide to the Secretary's Bureau a compact disc or technology prescribed by the Commission containing the testimony furnished by the party to the court reporter during the proceeding.

(b) *Form of electronic submission.* Electronically submitted testimony must be limited to pre-served testimony documents and be in Portable Document Format. Exhibits attached to pre-served testimony documents may be electronically submitted to the Commission in accordance with subsection (a). Exhibits not electronically submitted with pre-served testimony shall be submitted in paper form to the court reporter at hearing. The electronic submission requirements in this section do not apply to discovery requests or responses, or pre-filed testimony, including testimony filed under § 53.53(c) (relating to information to be furnished with proposed general rate increase filings in excess of \$1 million).

(1) *Electronic submission.* Each piece of pre-served testimony filed through the Commission's electronic filing system shall be uploaded separately. Each piece of pre-served testimony submitted to the Secretary's Bureau on a compact disc or other technology as prescribed by the Commission may be uploaded onto one compact disc, pending file size limitations.

(2) *Electronic submission of testimony modified at hearing.* Pre-served testimony submitted to the Commission must match exactly the version of testimony the presiding officer has required to be submitted to the court reporter at hearing. When a presiding officer requires a party to make hand-marked modifications to testimony during the hearing before submitting the testimony to the court reporter, the pre-served testimony electronically submitted to the Commission shall be marked to reflect the modifications. When a presiding officer does not require a party to make modifications to testimony at hearing



before submitting the testimony to the court reporter, the pre-served testimony electronically submitted to the Commission may not be marked. Testimony not admitted into the record during a hearing may not be electronically submitted to the Commission.

(i) *Electronic submission of testimony stricken at hearing.* Pre-served testimony which was stricken at hearing shall be revised to reflect that which was stricken by containing hand-marked strikethroughs or electronic strikethroughs on the testimony. A party may not completely electronically delete testimony which was stricken at hearing.

(ii) *Pagination of electronically submitted testimony documents.* Stricken or modified text on electronically submitted pre-served testimony documents must appear on the same page as the stricken or modified text on the pre-served testimony documents submitted to the court reporter at hearing.

(3) *Labeling of electronically submitted testimony.* Pre-served testimony electronically submitted to the Commission must be labeled consistent with the following examples:

- (i) “\_\_ St. No. \_\_ Direct Testimony of \_\_\_\_\_.”
- (ii) “\_\_ St. No. \_\_-R Rebuttal Testimony of \_\_\_\_\_.”
- (iii) “\_\_ St. No. \_\_-SR Surrebuttal Testimony of \_\_\_\_\_.”

(c) *Submission of paper copies of pre-served testimony to the court reporter when electronically filing pre-served testimony.* When electronically filing pre-served testimony with the Commission, one paper copy of pre-served testimony shall be provided to the court reporter at hearing.

(d) *Electronic submission of confidential or proprietary testimony.* Electronically submitted testimony confidential or proprietary in nature shall be submitted to the Secretary's Bureau on a compact disc or other technology as prescribed by the Commission. The compact disc must be labeled “CONFIDENTIAL” or “PROPRIETARY.” Confidential or proprietary testimony may not be filed through the Commission's electronic filing system. Electronically submitted testimony confidential or proprietary in nature must match exactly the version of the confidential or proprietary testimony submitted to the court reporter at hearing.

(e) *Electronic submission of improper testimony.* If a party in an adjudicatory proceeding discovers that improper testimony documents have been electronically submitted to the Commission, the party may raise the improper submission with the presiding officer assigned to the adjudicatory proceeding. The presiding officer or the Commission will make a determination regarding the submission of improper testimony.

(f) *Electronic access to electronically submitted testimony.* A party shall obtain an eFiling account with the Commission to view electronically submitted pre-served testimony and to receive daily action alerts from the Commission's case and document management database that pre-served testimony has been electronically submitted to the Commission.

[Pa.B. Doc. No. 14-2618. Filed for public inspection December 19, 2014, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 121 ]

[ L-2012-2317274 ]

### Review of Long-Term Infrastructure Improvement Plan

The Pennsylvania Public Utility Commission (Commission), on May 22, 2014, adopted a final rulemaking order which sets forth regulations for filing a Long-Term Infrastructure Improvement Plan to ensure that utilities are planning and executing expenditures that will maintain and improve safety, adequacy and reliability of existing distribution infrastructure.

#### Executive Summary

On February 14, 2012, Governor Corbett signed into law Act 11 of 2012 (Act 11), which, inter alia, authorizes water and wastewater utilities, electric distribution companies (EDCs), and natural gas distribution companies (NGDCs) or a city natural gas distribution operation to petition for a distribution system improvement charge (DSIC). See 66 Pa.C.S. § 1353.

The DSIC is a ratemaking mechanism that allows for the recovery of prudently incurred costs related to the repair, improvement and replacement of eligible utility infrastructure through a surcharge that is subject to reconciliation, audit and other consumer protections. A precondition to obtaining approval of a DSIC mechanism is the filing and approval of a long-term infrastructure improvement plan (LTIP). 66 Pa.C.S. §§ 1352 and 1353(b)(3). The purpose of an LTIP is to ensure that utilities are planning and executing capital expenditures that will maintain and improve the efficiency, safety, adequacy and reliability of existing distribution infrastructure at a faster pace than they have done historically.

By Order entered March 14, 2013, the Commission issued a Proposed Rulemaking Order on Act 11 of 2012, which, inter alia, incorporated many of the proposed procedures set forth in the Commission's Final Implementation Order at Docket No. M-2012-2293611 (August 2, 2012) for filing and obtaining approval of an LTIP, including, but not limited to, the elements to be incorporated therein, the standard of review for approval of the LTIP and the procedures for the subsequent periodic review of the LTIP. The Commission reviewed the comments to the Proposed Rulemaking Order and at its May 22, 2014 Public Meeting adopted a Final Rulemaking Order. Specifically, the Final Rulemaking Order, entered May 23, 2014, sets forth the elements an LTIP must contain and outlines the procedures and process for the filing and review of LTIPs.

Public Meeting held  
May 22, 2014

*Commissioners Present:* Robert F. Powelson, Chairperson; John F. Coleman, Jr., Vice Chairperson; James H. Cawley; Pamela A. Witmer; Gladys M. Brown

*Review of Long-Term Infrastructure Improvement Plan;*  
L-2012-2317274

### Final Rulemaking Order

*By the Commission:*

By Order entered March 14, 2013, the Commission issued a Proposed Rulemaking Order on Act 11 of 2012, which, inter alia, authorizes water and wastewater utilities, electric distribution companies (EDCs), and natural

gas distribution companies (NGDCs) or a city natural gas distribution operation to petition for a distribution system improvement charge (DSIC). See 66 Pa.C.S. § 1353. The DSIC is a ratemaking mechanism that allows for the recovery of prudently incurred costs related to the repair, improvement and replacement of eligible utility infrastructure through a surcharge that is subject to reconciliation, audit and other consumer protections. A precondition to obtaining approval of a DSIC is the filing and approval of a long-term infrastructure improvement plan (LTIIP). 66 Pa.C.S. § 1352. This order constitutes a final rulemaking to establish the procedures and criteria for the filing and subsequent periodic review of LTIIPs.

#### *Background*

On February 14, 2012, Governor Corbett signed into law Act 11 of 2012 (Act 11), which amends Chapters 3, 13 and 33 of the Pennsylvania Public Utility Code (Code). 66 Pa.C.S. §§ 308, 1307, 1311, 1327 and 1350–1360. Act 11 authorizes water and wastewater utilities, EDCs, and NGDCs or a city natural gas distribution operation to petition for a DSIC.

On April 5, 2012, the Commission held a working group meeting with stakeholders regarding implementation of Act 11. In particular, we sought input from stakeholders on the following key topics in advance of issuing a Tentative Implementation Order:

- Elements of a model DSIC tariff, including the necessary computation, reconciliation and consumer protection provisions (audits, reconciliations, percent caps and re-set to zero);
- Elements of and standards for approval of an LTIIP, ability to use previously approved plans, and subsequent periodic review parameters;
- Establishing a baseline for the current rate of infrastructure improvement;
- Examination of the relationship between the LTIIP under Act 11 and the NGDC pipeline replacement and performance plans required by Commission order at Docket No. M-2011-2271982;
- Determination of the equity return rate when more than 2 years have elapsed between the effective date of a final order in a base rate case and the effective date of the DSIC; and
- Standards to establish and ensure that DSIC work is performed by “qualified employees” of either the utility or an independent contractor.

On May 11, 2012, the Commission entered a Tentative Implementation Order at Docket No. M-2012-2293611 that reflected stakeholders’ concerns; set out a model draft tariff; proposed procedures and guidelines necessary to implement Act 11, including a DSIC process for investor-owned energy utilities, city natural gas distribution operations, and wastewater utilities; and set forth procedures to facilitate the transition from Section 1307(g) water DSIC procedures to Act 11 DSIC procedures.

The Tentative Implementation Order called for comments. Comments were received from various EDCs, NGDCs and water utilities. The Commission reviewed the comments and at its August 2, 2012 Public Meeting adopted a Final Implementation Order, which established procedures and guidelines to carry out the ratemaking provisions of Act 11 in Chapters 3 and 13 of the Code.

The Proposed Rulemaking Order took elements from the Final Implementation Order in establishing proposed procedures and criteria for the filing and subsequent

periodic review of LTIIPs. The Proposed Rulemaking Order was published in the *Pennsylvania Bulletin* on October 19, 2013. See 43 Pa.B. 6206. Comments were filed by the Independent Regulatory Review Commission (IRRC), the Pennsylvania Office of Consumer Advocate (OCA), PECO Energy Company (PECO), jointly by Peoples Natural Gas LLC and Peoples TWP LLC (collectively, “Peoples”), jointly by Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, “the FirstEnergy Companies”), the Energy Association of Pennsylvania (EAP) and Duquesne Light Company (Duquesne).

#### *Discussion*

The DSIC mechanism, enacted via Act 11, allows EDCs, NGDCs, wastewater utilities, and city natural gas operations, like water utilities previously, to recover the reasonable and prudently incurred costs related to the repair, improvement, and replacement of utility infrastructure. The filing of an LTIIP is a necessary component of a DSIC petition. 66 Pa.C.S. § 1353(b)(3). However, water utilities with a previously-approved DSIC were not required to file an LTIIP until otherwise directed by the Commission. See 66 Pa.C.S. § 1360.

The purpose of an LTIIP is to ensure that utilities are planning and executing capital expenditures that will maintain and improve the efficiency, safety, adequacy and reliability of existing distribution infrastructure at a faster pace than they have done historically. The scope of the proposed regulations was to set forth the elements an LTIIP must contain and to outline the procedures and process for the filing and review of LTIIPs. We appreciate the comments that were filed in response to the proposed regulations. We will proceed section by section of the proposed regulations in addressing the comments.

#### *Water Utilities*

##### *Comments*

The OCA submits that the Commission should now require water utilities with existing DSIC mechanisms to file an LTIIP on a schedule established by the Commission. Additionally, the OCA states that the Commission should make clear that, once the initial LTIIP for the water utility has been filed and approved by the Commission, the water utility must adhere to the regulations going forward. In its comments, we note that IRRC referenced the OCA comments and directed that we explain what effect the rulemaking will have on water and wastewater utilities with a pre-approved DSIC mechanism in place.

##### *Resolution*

The Commission takes note of the OCA’s concern, and IRRC’s reference thereto, regarding providing clarification that utilities with existing DSIC mechanisms that pre-date Act 11, namely water utilities, should comply with requirements set forth in Act 11. We agree that water utilities should also comply with the requirements of Act 11. Pursuant to Section 1360(b), water utilities with a previously-approved DSIC are not required to file and obtain approval of their LTIIP unless and until directed by the Commission.

Given that this legislation has been in effect for over 2 years and that the Commission has reviewed and approved LTIIPs filed by natural gas and electric utilities, the Commission believes it is now appropriate to require each water utility with a DSIC tariff in place to file an LTIIP as well. The LTIIP filing and review process will

ensure that the DSIC funds collected by pre-Act 11 water companies from consumers are properly allocated to eligible projects that will now conform to the standards and requirements of Act 11. Accordingly, the Commission will issue a Secretarial Letter that sets forth a date certain by which water utilities with DSIC tariffs in place will be required to file an LTIIIP with the Commission.

#### *Section 121.2. Definitions.*

##### *Comments*

IRRC comments that the definition of “eligible property” set forth in the subsection of the proposed regulation should be amended to more accurately track the statute. IRRC Comments at 1. Additionally, IRRC had concerns regarding the definition of “major modification.” IRRC questions whether, in order for a modification to be considered a “major modification,” does it have to meet all four of the criteria set forth in the definition. IRRC states the Commission should clarify by either inserting the word “or” or “and” at the subparagraph (iii). *Id.* at 2. Likewise, Duquesne makes a similar statement in its comments. Duquesne Comments at 3.

Conversely, the FirstEnergy Companies suggest that the Commission should eliminate the first two criteria contained in subparagraphs (i) and (ii) set forth in the definition of “major modification.” FirstEnergy Companies Comments at 2. The FirstEnergy Companies state that criteria in subparagraphs (i) and (ii) about eliminating or changing the schedule for “a category of eligible property” could be a relatively insignificant category of property but, under the proposed regulation, would nevertheless constitute a “major” modification. *Id.* at 2-3. They suggest that the final two criteria, subparagraphs (iii) and (iv), would cover other circumstances which the Commission may view as major modifications. *Id.* at 3.

In its comments, EAP suggests that the Commission consider adjusting the proposed definition of “major modification” by eliminating criterion one and the reference to “category of eligible property” in criterion two. EAP Comments at 4. EAP states that with respect to the first criterion, the elimination of a category of eligible property from an LTIIIP may not comprise a major modification depending on whether the repair, improvement or replacement is actually a substantial portion of the work to be achieved under the LTIIIP or is a substantial percentage of the projected expenditures. EAP Comments 3-4. Further, EAP states that extending the schedule by more than two years for a specific category of eligible property may not be a major modification depending on whether the particular category of property represents a substantial portion of the work under the LTIIIP. *Id.*

In its comments, PECO states that the Commission should revise the first criterion for the definition of “major modification.” PECO states that rather than including a specific time period, the Commission should consider a major modification to include any extension which increases the schedule by more than 15%. PECO asserts that this revision to the criterion would capture more impactful schedule extensions on a total project plan basis. PECO Comments at 2. Additionally, PECO states that the 15% cost increase in the total estimated cost of the LTIIIP set forth in criterion three of the proposed definition of “major modification” is a low hurdle. PECO asserts that the cost estimates included in the LTIIIP are preliminary, as the work described therein may not be performed for a number of years. *Id.* PECO further states that estimates prior to completion of engineering and design work could easily be later revised by a factor of 25% or more. Accordingly, PECO recom-

mends that the percentage in criterion three be increased to 25% to account for this, as well as the impact of inflation. *Id.* at 3.

Lastly, Duquesne recommends the elimination of criterion four set forth in the proposed definition of “major modification.” Duquesne Comments at 3. Alternatively, Duquesne suggests that if this criterion were to remain, that an additional definition of “substantial change” is necessary in the final regulations. *Id.*

The OCA suggested that the proposed definition of “long term infrastructure improvement plan” should be clarified so that it is clear that the LTIIIP must be filed to demonstrate continuing eligibility to impose a DSIC surcharge. OCA Comments at 5.

##### *Resolution*

This section of the proposed regulations sets forth the definitions of the key terms that will be used throughout the regulations. We note IRRC’s comments regarding the proposed definition of “eligible property” and we amend the final form regulation to more accurately track the statute. The Commission also takes note of the comments regarding the proposed definition of “major modification.” The commentators suggest that the elimination of a category of eligible property or the extension of the repair, improvement or replacement of a category of eligible property by more than two years may not comprise a major modification. However, we do not agree with the substance of those comments, nor with the commentators’ suggestion that we delete subparagraphs (i) and (ii) of the proposed definition, for the reasons articulated below.

First, the Commission notes that the LTIIIP is limited to only “eligible property” as we determined that it was unnecessary for a utility to provide extensive data regarding components of its distribution system for which it is not seeking DSIC recovery. Hence, the LTIIIP filed by a utility need only identify the specific eligible distribution plant property, as defined in 66 Pa.C.S. § 1351, for which the utility has determined it will repair, improve or replace based upon the age, functionalities, reliability and performance of such property and for which it will seek DISC recovery. Accordingly, if a statutory category of property that the Commission has approved is proposed to be eliminated from the LTIIIP by the utility, in the Commission’s judgment, this qualifies as a major modification to the LTIIIP that necessitates Commission review.

Second, the Commission acknowledges that while the LTIIIP is a prospective document, nevertheless, it is incumbent for a utility to be as specific as possible in identifying which category of eligible property it will prioritize in regard to repairing, improving or replacing in order to maintain and ensure the safety, adequacy and reliability of its existing distribution system. See 66 Pa.C.S. § 1352. Hence, in its filed LTIIIP, the utility should have carefully examined its current distribution infrastructure, including its elements, age, and performance and established a plan that reflects reasonable and prudent planning of expenditures over the course of many years to replace and improve aging infrastructure in order to maintain the safe, adequate, and reliable service required by law. See generally 66 Pa.C.S. § 1501. Additionally, we are cognizant of the fact that the utility must show in its corresponding LTIIIP, the acceleration of the replacement of aging infrastructure and should establish an accurate proposed schedule to complete the work that reflects an acceleration of the replacement of aging infrastructure or maintains the accelerated pace already accomplished by the utility. *Id.* Thus, the Commission believes that any proposal by the utility to extend the

schedule for repair, improvement or replacement of a category of eligible property by two or more years qualifies as a major modification. Accordingly, we believe that the subparagraphs (i) and (ii) set forth in the final form regulation accurately address some types of “major” modifications to an LTIIIP. As a result, we will not delete these subparagraphs from the definition of major modification in the final form regulation.

The Commission takes note of PECO’s comments regarding subparagraph (iii) of the proposed definition of “major modification.” This subparagraph deals with a change in the total estimated costs for the work identified in the LTIIIP. We understand PECO’s position that cost estimates included in the LTIIIP are preliminary figures and that the estimates prior to the completion of engineering and design work could later be revised by a factor of 25% or more. We acknowledge that cost estimates for the work set forth in the LTIIIP are preliminary and may vary; however, we will only adopt PECO’s suggestion in part as we determine that an increase of 25% or more to the total cost estimate may be exorbitantly high given that the cost estimate is applicable to the total plan and not just a year-to-year fluctuations in spending. Therefore, we determine that an increase of 20% or more to the total cost estimate will be considered a major modification. The final form regulation incorporates this revision.

Further, the Commission takes note of IRRC’s comments regarding the proposed definition of “major modification” and will insert language to indicate a major modification is a change “which meets at least one of the following criteria.”

Lastly, the Commission notes Duquesne’s comments regarding subparagraph (iv) of the proposed definition of “major modification.” The Commission intended this subparagraph to be a miscellaneous or catch-all provision for any other “major” modifications it could not possibly foresee or list at this time. Therefore, it is necessary that this subparagraph be broad enough to allow the Commission to require an approval process for a change, not presently listed, that substantially alters the previously approved LTIIIP. Therefore, the Commission rejects Duquesne’s recommendation of revising this “catch-all” provision in the final form regulation.

### *Section 121.3. LTIIIP.*

#### *Comments*

IRRC states that it has two concerns about this section of the proposed regulations. First, IRRC requests that the Commission explain the need for including three additional elements in a utility’s LTIIIP that are not included in the statute and why it believes these additional elements are consistent with the intent of the General Assembly and Act 11. IRRC Comments at 2. The three additional elements cited by IRRC relate to the establishment of a workforce management and training program, a description of the utility’s outreach and coordination activities with other utilities and other entities regarding their planned maintenance/construction projects and roadways and a description by NGDCs of their individual plans to address damage prevention, corrosion control, emergency response times, and identification of their critical valves. Secondly, IRRC suggests that this proposed section be clarified to state that the filing of an LTIIIP is not mandatory for all utilities and applies only to those utilities seeking to impose a DSIC. Id.

Likewise, EAP, PECO and Peoples state that the word “shall” when referring generally to the filing of an LTIIIP should be replaced with the word “may” so as not to infer

that all utilities are required to file an LTIIIP. EAP Comments at 4; PECO Comments at 3; Peoples Comments at 4.

EAP states that proposed subsection 121.3(a)(6) should be modified to include “a description either of the manner in which infrastructure replacement will be accelerated or the manner in which previously accelerated infrastructure replacement will be maintained...” EAP Comments at 5. EAP asserts that the additional language would account for utilities that have already engaged in such accelerated infrastructure replacement and is consistent with proposed subsection 121.4(e), under which the Commission will determine whether an LTIIIP “accelerates or maintains an accelerated rate of infrastructure replacement.” Id.

EAP and PECO both expressed concerns about proposed subsection 121.3(a)(8). Proposed section 121.3(a)(8) requires that utilities include a description of planned outreach and coordination efforts with other utilities, the Pennsylvania Department of Transportation (PennDOT) and local governments regarding the work outlined in the LTIIIP. EAP states that it believes this concept is better suited to a guideline or a policy statement and suggests that this subsection be eliminated from the proposed regulation. EAP Comments at 5. EAP asserts that attempting to delineate this type of activity in a forward-looking plan is difficult and may not in the course of LTIIIP implementation provide to be a reliable depiction of the actual practice as the very nature of such coordination involves numerous moving parts that continually evolve and change. Id. EAP states that it is concerned that a deviation from a described outreach and coordination plan as set forth in a utility’s LTIIIP not be a ground for termination of a DSIC under 66 Pa.C.S. § 1352(b)(2). Id. at 5-6. PECO requests that the Commission remove the proposed subsection of the regulation since it was not contained in Act 11 and goes beyond the intended scope for LTIIIPs. PECO Comments at 3.

Also, EAP, PECO and Peoples expressed concerns about proposed subsection 121.3(a)(9). EAP states that this requirement is not enumerated in the statute and should not be the basis of an order disapproving an LTIIIP. EAP Comments at 6. EAP further states that such information is evaluated in the context of the Distribution Integrity Management Program (DIMP) Plan that is required to be prepared and available under federal regulations to both federal authorities and state regulatory agencies. Id. EAP asserts that requiring such information to be included in an LTIIIP filed only by NGDCs exceeds the parameters set forth in Act 11 and should not be the basis for a termination of a DSIC under 66 Pa.C.S. § 1352(b)(2) without specific statutory authority.

Similarly, Peoples states that there is no current Commission requirement for an NGDC to prepare a plan to address damage prevention, corrosion control, emergency response times, and identification of the NGDC’s critical valves. Peoples Comments at 5-6. Peoples notes that this matter may be addressed in an NGDC’s DIMP Plan, but even in the DIMP, if each of these matters is addressed, it is as a part of the overall DIMP, and not a separate plan within the DIMP. Peoples Comments at 6. Peoples asserts that if NGDCs are required to prepare such plans, that proposal should be the subject of its own rulemaking proceeding and not “shoehorned” into this instant rulemaking. Id. Peoples further asserts that one of the main issues with these requirements when they were proposed in the abandoned rulemaking at Docket No. M-2011-2271982, was that the requirements were vague and without factual support. Id. Furthermore, PECO asserts

that the requested information is not duplicative of the LTIP but rather is beyond the scope of an NGDC's LTIP and should be deleted. *Id.* Likewise, PECO states this proposed subsection has nothing to do with main replacement and is not relevant to an LTIP. PECO Comments at 3.

The OCA states that proposed section 121.3(a) should be modified to make clear that an LTIP must be filed to both implement and continue a DSIC mechanism. OCA Comments at 5. The OCA adds that this modification will also make clear that water utilities with existing DSIC mechanisms at the time of the enactment of Act 11 must also file an LTIP to ensure that they are in compliance with the requirements of Act 11. *Id.* at 6. Additionally, the OCA recommends that the Commission publish a schedule in the *Pennsylvania Bulletin* that allows for the phased filing of LTIPs. *Id.* at 7. Specifically, the OCA suggests that the Commission modify Section 121.3(a) to address the point that after the approval of the initial LTIP, subsequent LTIPs must be filed in accordance with the Commission's phased filing schedule. *Id.* In its comments, IRRC references the OCA's suggestion for the phased filing of LTIPs and asks the Commission why it did not consider adopting a phased filing schedule for submissions by utilities seeking to implement a DSIC mechanism. IRRC Comments at 1.

#### Resolution

This section of the proposed regulations sets forth the specific elements that must be contained in a utility's LTIP. The Commission takes note of the comments requesting that this proposed section be clarified to state that the filing of an LTIP is not mandatory for all utilities and applies only to those utilities seeking to impose a DSIC. We agree with this position. Accordingly, in the final form regulation, the Commission revises subsection 121.3(a) to state that only those utilities seeking to implement a DSIC are required to file an LTIP, so as not to imply that all jurisdictional utilities are required to file an LTIP. Additionally, the Commission modifies subsection 121.3(a) to make clear that an LTIP must be filed to both implement and continue a DSIC mechanism. We agree with the OCA that adding this modification will make clear that all utilities, including water utilities with existing DSIC mechanisms at the time of the enactment of Act 11, are to be in compliance with the requirements of Act 11 and must file an LTIP to implement or continue to a DSIC mechanism.

However, the Commission disagrees with the OCA's recommendation that we publish a schedule in the *Pennsylvania Bulletin* that allows for the phased filing of LTIPs. The Commission notes that many of the non-water utilities seeking to implement a DSIC recovery mechanism have already filed individual initial LTIPs; therefore, it is unnecessary at this time to incorporate this suggestion. Furthermore, we also do not believe it is necessary to establish a phased filing schedule for water utilities to file their individual LTIPs. The Commission will issue a Secretarial letter establishing the end date that water utilities must have filed their LTIPs and start complying with the other requirements of Act 11. Just as we did for the non-water utilities, the Commission will leave it up to the discretion of each affected water utility as to when it determines it should file its LTIP in order to meet this deadline. Thus, the Commission will not incorporate this OCA recommendation in the final form regulation.

As noted above, IRRC requests the Commission to explain the need for including three additional elements

in a utility's LTIP that are not included in the statute and why it believes these additional elements are consistent with the intent of the General Assembly and Act 11. Those three additional elements relate to the establishment of a workforce management and training program, a description of the utility's outreach and coordination activities with other utilities and other entities regarding their planned maintenance/construction projects and roadways and a description by NGDCs of their individual plans to address damage prevention, corrosion control, emergency response times, and identification of their critical valves.

With regard to the importance for including workforce management plans in an LTIP as set forth in proposed subsection 121.3(a)(7), the Commission points to Section 1359 of the Code, 66 Pa.C.S. § 1359, which requires the Commission to set standards to ensure that DSIC-eligible work is performed and inspected by qualified personnel. See 66 Pa.C.S. § 1359(a) and (b). Clearly, with the inclusion of this statutory provision, Act 11 contemplates that the utilization of qualified personnel is essential to the successful implementation of any long-term plan to improve infrastructure. In order for the Commission to ensure that the utility is in compliance with 66 Pa.C.S. § 1359(a) and (b), the Commission determined that a workforce management and training plan designed to ensure that a utility will have access to a qualified workforce to perform work in a cost-effective, safe and reliable manner should be a necessary element of an LTIP. Therefore, the Commission will retain this requirement in the final form regulations. Also, the Commission will incorporate a definition of "qualified personnel" in the definitions section of the final form regulation. The Commission will adopt the general definition of a "qualified" person, as established by the U.S. Department of Labor, Occupational Safety and Health Administration, in its regulations at 29 C.F.R. § 1926.32.

With regard to the requirement set forth in proposed subsection 121.3(a)(8) that a utility include the description of planned outreach and coordination efforts with other utilities, PennDOT and local governments regarding the work outlined in its LTIP, the Commission believes this is a necessary requirement in an LTIP in order to ensure that LTIP projects are properly planned, coordinated with other stakeholders, and executed in an efficient and cost-effective manner. See generally Application of the Department of Transportation of the Commonwealth of Pennsylvania for the Approval to Replace the Existing Superstructure of the Bridge Carrying SR0462 Over the Single Track of the Norfolk Southern Railway Company (DOT #517 596 W) in Mountville Borough, Lancaster County; And the allocation of Costs Incident Thereto, Docket No. A-2009-2132946 (Order entered April 10, 2014). Hence, the Commission is not persuaded by the concerns of EAP and PECO regarding this requirement and disagrees with their suggestion that we should remove this requirement from being included as part of the LTIP. This is an essential element of good project planning for the success of their infrastructure improvement plans.

Furthermore, the implementation of a DSIC mechanism to non-water utilities will result in the initiation of numerous maintenance and construction projects throughout various parts of the state by those utilities. The Commission acknowledges that this may lead to significant disruptions as utilities perform work in the rights of way of the roadways and streets across the Commonwealth in order to replace or repair their infrastructure. It is incumbent for utilities to coordinate with

other utilities, PennDOT and local governments that may work near their facilities. The Commission notes that the number one cause of damage to underground utility infrastructure is excavation and not necessarily by the utility that owns the equipment, but by independent contractors or other utilities performing excavation work. Also, the Commission believes that coordinated efforts for the replacement or repair of infrastructure will result in cost-effective budgets and the ability of the utilities to keep their projected construction schedules.

Accordingly, the Commission believes it is imperative for utilities to coordinate and develop systematic procedures for centrally reporting, documenting, and exchanging information and that it is prudent for utilities to identify and maintain their coordination efforts so they can minimize multiple disruptions to locations where projects may overlap.

For these reasons, the Commission retains the requirement for a utility to provide a description of its outreach and coordination activities with other utilities, PennDOT and local governments regarding their planned maintenance/construction projects and roadways that may be impacted by the plan in the final form regulation.

IRRC also asked us to explain the reason for directing NGDCs to include additional information regarding damage prevention, corrosion control, emergency response times and identification of critical valves as set forth in proposed subsection 121.3(a)(9). As detailed above, EAP, PECO and Peoples strongly object to this requirement.

In response to IRRC, the Commission explains that it had decided against establishing a separate Pipeline Replacement and Performance Plan filing process at Docket M-2011-2271982,<sup>1</sup> as we believed it would be duplicative of the Act 11 DSIC regulatory process, specifically, the information contained in LTIIPs. Nevertheless, given the age of the existing natural gas distribution infrastructure throughout the Commonwealth and in order to safeguard the public, we initially determined that it was necessary for NGDCs to submit this information and indicate how their LTIIPs prioritize gas system safety and reliability. However, we understand their concerns, are persuaded by them in part and, therefore, have reconsidered the need to have this requirement in the LTIIP final form regulations, for the reasons expressed below.

The commentators assert that much of this same information is evaluated in the context of the DIMP plans filed by the NGDCs under federal regulations to both federal authorities and state regulatory agencies. Consequently, they assert that it would be duplicative and redundant for an NGDC to file this information in its LTIIP. Moreover, Peoples states that while these matters are addressed in the DIMP plans, the matters are not addressed as a separate plan but as items in the overall DIMP. The Commission notes that pursuant to Federal pipeline safety laws, NGDCs were required to implement, by August 2, 2011, a DIMP plan. See 49 C.F.R. § 192.1005. The DIMP was instituted to assure pipeline integrity for gas distribution pipelines similar to the integrity management regulations for hazardous liquid and gas transmission pipelines and is filed with the U.S. Department of Transportation (US DOT). The plan elements must include, inter alia, risk evaluation and ranking, performance measurement and monitoring, and periodic evaluation and improvement. See 49 C.F.R. § 192.1007. Accordingly, we determine that information

regarding damage prevention, corrosion control and emergency response times is outside the scope of the information that needs to be included in the LTIIP. Also, much of this information is included in the DIMP plans which are already filed by NGDCs with the Commission under separate regulatory action. Thus, it would be redundant to request an NGDC to file this same information in an LTIIP.

However, the Commission believes that its directive that NGDCs file information concerning identification of critical valves is within the spirit and scope of Act 11. If a NGDC identifies a critical valve that it will repair, improve upon or replace and for which it will seek DSIC recovery, then it must include such information its LTIIP. Nonetheless, beyond that particular element, we believe it is prudent to delete the other additional elements for NGDCs from inclusion in the LTIIP. Accordingly, section 121.3(a)(9) of the final form regulation has been revised.

*Section 121.4. Filing and Commission review procedures.*

*Comments*

In its comments, EAP requests clarification of the term “parties” as used in proposed subsection 121.4(a) and throughout the proposed regulations in the context of effectuating service. EAP Comments at 6. EAP states the term “parties” should include the statutory advocates and those persons who formally intervened and participated in the most recent base rate case proceeding so as to reduce the burden and unnecessary cost of providing copies to persons who might have commented or provided input in the most recent base but were not litigants. *Id.* Likewise, PECO states that given the large number of parties that may intervene in a base rate case, many of whom are not active participants in the litigation process, PECO suggests amending the language in the proposed subsection to include only parties that are included in the official service list. PECO Comments at 3-4. Furthermore, Peoples asserts that since an LTIIP is not related to a utility’s most recent base rate case, a requirement to serve a copy of an LTIIP filing on parties to the most recent base rate case appears to be without reason, would create inconvenience if those parties have no interest in the LTIIP and would create unnecessary work and expense for the utility in that case. Peoples Comment at 6. Peoples states that if a party to the most recent base rate case has a legal interest in the LTIIP filing, it can intervene in the LTIIP proceeding and obtain a copy of the filing from the utility. *Id.* IRRC notes the above comments and asks the Commission to clarify what is meant by the term “parties” in this proposed subsection. IRRC Comments at 2.

In its comments, the OCA states that proposed subsection 121.4(b) does not specify the time frame in which proprietary treatment should be sought for the LTIIP filing. OCA Comments at 8. The OCA asserts that given the short time frames for review and comment of an LTIIP, the regulations should make clear that proprietary treatment must be sought and received by the utility prior to the filing of the LTIIP with the Commission. *Id.* IRRC notes the OCA’s concern and asks the Commission to explain when a utility is required to obtain the aforementioned approval and clarify the regulation accordingly. IRRC Comments at 2.

Additionally, the OCA states that proposed subsection 121.4(c) allows for only a twenty-day comment period following the submission of the LTIIP. The OCA asserts that a twenty-day comment period is an insufficient amount of time to allow for thorough review and comment by interested parties. OCA Comments at 6. The

<sup>1</sup> Natural Gas Pipeline Replacement and Performance Plans, Docket No. M-2011-2271982 (Order entered February 28, 2013).

OCA proposes that interested parties should have at least sixty days to review the LTIIIP itself, rather than twenty. Id. IRRC notes the OCA's proposal and asks the Commission what factors did it consider when determining that a twenty-day comment period was appropriate for reviewing LTIIIPs. IRRC Comments at 3.

Duquesne requests the Commission to consider revising the language of proposed subsection 121.4(e)(1) so that the LTIIIP does not limit the requirement of reflecting or acknowledging acceleration to replacement of infrastructure alone. Duquesne Comments at 4. Duquesne states the LTIIIP should state how it will reflect the acceleration or how it will maintain the accelerated rate of infrastructure "repair, improvement and replacement." Id.

In their comments, EAP, PECO and Peoples raise concerns about proposed subsection 121.4(f). EAP states that this proposed subsection implies that if an LTIIIP is filed, the Commission has the authority to direct a particular work plan or schedule whereas the statute delineates specific criteria which the Commission should consider in determining whether to approve or disapprove the LTIIIP. EAP Comments at 7. EAP asserts that it remains a utility's option either to amend the proposed LTIIIP to meet the statutory requirements or withdraw the plan and forego the opportunity to use a DSIC. Id. PECO states it believes that this subsection should be clarified to make it clear that if the Commission does not find an LTIIIP to be sufficient to ensure and maintain service, then the utility has the right to withdraw its LTIIIP foregoing recovery of any additional amounts under its DSIC. PECO Comments at 4. PECO asserts that because filing an LTIIIP is voluntary, there should be no requirement to file a new or revised LTIIIP if the utility does not desire to do so. Id. Peoples has similar concerns regarding proposed subsection 121.4(f). Peoples suggest that it would be reasonable that the utility also have the option to withdraw the LTIIIP and not go forward with implementation or continuance of a DSIC. Peoples Comments at 7.

IRRC states that the proposed subsection should reference both sections 121.3 and 121.4 since the elements of an LTIIIP are found in the preceding section of the proposed regulation. IRRC Comments at 3. Additionally, based upon the above comments, IRRC asks the Commission whether it can direct a particular work plan or schedule and under what statutory authority this can be accomplished. Id. Furthermore, IRRC states that the Commission should consider adding a provision that specifically states a utility has the right to withdraw an LTIIIP. Id.

#### *Resolution*

This section of the proposed regulations sets forth the filing procedures for LTIIIPs, the public comment period, and the manner in which the Commission will review a utility's LTIIIP filing in order to implement a new DSIC mechanism or continue a previously-approved DSIC mechanism. The Commission takes note of the comments requesting clarification of the term "parties" in the context of effectuating service of the filed LTIIIP as set forth in proposed subsection 121.4(a). We agree with the commentators that a requirement to serve a copy of the LTIIIP filing on all parties, including those who may have only filed comments and not participated in the litigation process, may create unnecessary work and extra expense for the utility. Consequently, the Commission revises the regulation to provide that a utility only has to file a copy of its LTIIIP on the statutory advocates, the Commission's Bureau of Investigation and Enforcement (BI&E), and

parties of record in its most recent base rate case proceeding. We incorporate this revision to subsection 121.4(a) in the final form regulation.

The OCA states that proposed subsection 121.4(b) does not specify the time frame in which proprietary treatment should be sought for the LTIIIP filing and requests that given the short time frames for review and comment of an LTIIIP, the regulations should make clear that proprietary treatment must be sought and received by the utility prior to the filing of the LTIIIP with the Commission. We decline to adopt this suggestion. Section 5.365 of our regulations governs the issuance of a protective order. 52 Pa. Code § 5.365. We note that section 5.365(c)(4) states that a party may not refuse to provide information which a party reasonably believes to be proprietary to a party who agrees to treat the information as if it were covered by a protective order until the request for protective order is issued or denied. See 52 Pa. Code § 5.365(c)(4). Thus, the Commission is of the opinion that it is unnecessary to require a utility to obtain a protective order prior to the filing of its LTIIIP as the party seeking to obtain the protective order still has to furnish the information.

Similarly, OCA asserts that a twenty-day comment period set forth in proposed subsection 121.4(c) is an insufficient amount of time to allow for thorough review and comment by interested parties and requests a sixty-day review period. We decline to adopt OCA's suggestion for a sixty-day review period, but agree that the comment period should be lengthened. Accordingly, in order to give interested parties sufficient time to comprehensively and thoroughly review the filed LTIIIP, we will extend the time for interested parties to respond to the LTIIIP to 30 days. Subsection 121.4(c) of the final form regulation incorporates this extended responsive time period. Additionally, this subsection of the final form regulation indicates that, if the response or answer to the LTIIIP petition raises material factual issues, the Commission may refer the petition to the Office of Administrative Law Judge (OALJ) for hearing and decision.

The Commission takes note of Duquesne's request that we consider revising the language of proposed subsection 121.4(e)(1) so that the LTIIIP does not limit the requirement of reflecting or acknowledging acceleration to replacement of infrastructure alone. We agree with Duquesne's suggestion and will adopt it. In its Final Implementation Order, the Commission previously stated that the LTIIIP should reflect and maintain an acceleration of the infrastructure replacement over the utility's historic level of capital improvement. This is consistent with the language of the Act. See 66 Pa.C.S. § 1352(a)(6). Additionally, the Commission also agrees that the LTIIIP should state both how it will reflect the acceleration and/or how it will maintain the accelerated rate of the "improvement and replacement" of infrastructure. Thus, we incorporate this requirement into subsection 121.4(e)(2) of the final form regulation. Furthermore, the Commission notes that we inadvertently did not include as an element of the LTIIIP that the filing contain measures to ensure that the projected annual expenditures are cost effective. To be consistent with the statute, we have incorporated this element into subsection 121.4(e)(1) of the final form regulation.

The Commission takes note of the comments regarding proposed subsection 121.4(f). This proposed subsection states that the Commission will order the utility to file a new or revised LTIIIP if the filed LTIIIP does not meet the statutory criteria of being sufficient to ensure and maintain adequate, efficient, safe and reliable and reasonable service. EAP states that clarification is necessary regard-

ing this proposed subsection as it implies that if an LTIIIP is filed, the Commission has the authority to direct a particular work plan or schedule whereas the statute delineates specific criteria which the Commission should consider in determining whether to approve or disapprove the LTIIIP.

We disagree with EAP's position. The statute provides that if the LTIIIP is "not adequate to maintain adequate, efficient, safe, reliable and reasonable service, the Commission shall order a new or revised plan." See 66 Pa.C.S. § 1352(a)(7)(emphasis added). Clearly, if the Commission determines that a utility's filed LTIIIP does not meet this statutory criteria, Act 11 expressly grants the Commission the authority to order a utility to file a new or revised LTIIIP. It makes little sense for the Commission to order a "new or revised plan" with no further guidance on the necessary parameters of the plan. Thus, the Commission believes that Section 1352(a)(7) implies that the Commission can specifically direct a utility to incorporate a particular infrastructure improvement project in the new or revised plan for which it has deemed is necessary and in the public interest. Moreover, the Commission retains a fundamental duty under the Code to ensure that each public utility, including those covered by Act 11, "shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of the public." 66 Pa.C.S. § 1501. Therefore, both preexisting Section 1501 and the recently added Section 1352(a)(7) of the Code authorize the Commission to direct, after notice and opportunity to be heard and with an appropriate mechanism for cost recovery, the implementation of infrastructure maintenance and improvement projects deemed necessary to ensure safe and reliable service. By providing parameters for the "new or revised plan" in sufficient detail to bring the utility into compliance with Act 11, the Commission is fulfilling this statutory duty. Accordingly, this subsection is consistent with the Act 11 and the Commission's duties under Section 1501 in this regard and will remain the same in the final form regulation.

Additionally, EAP, PECO and Peoples assert that if the LTIIIP does not meet the Act 11 statutory requirements, it remains the utility's option either to amend the proposed LTIIIP in order to meet those statutory requirements or withdraw the plan and forego the opportunity to use a DSIC. We agree with this position in part. The Commission acknowledges that the filing of an LTIIIP is voluntary. The Commission will not approve an LTIIIP filing that will result in sub-standard service or sub-standard reliability from the utility. When the Commission finds that a public utility's proposed LTIIIP that has been filed in order to initiate a DSIC mechanism or to continue a previously-approved DSIC mechanism is not adequate and sufficient to ensure and maintain adequate service to the public, the Commission will order the public utility to modify its LTIIIP and resubmit a new and revised LTIIIP incorporating the suggested modifications.

However, upon such a finding of inadequacy or insufficiency and the issuance of a Commission order to file a revised LTIIIP, a utility may opt to withdraw its proposed LTIIIP filing pursuant to sections 1.82 or 5.94 of the Commission regulations, 52 Pa. Code §§ 1.82 and 5.94. Subsection 121.4(g) of the final form regulation incorporates this concept. However, at that point, the utility will no longer qualify for the DSIC mechanism and the utility will no longer be afforded the benefit of obtaining accelerated cost recovery for its repairs, improvements and replacements.

Nonetheless, as we mentioned above, in accordance with Sections 1501 of the Code, 66 Pa.C.S. § 1501, the Commission is under the duty to ensure that each public utility provides adequate, efficient, safe and reliable service. Thus, where the lack of adequate infrastructure planning and construction threaten the public welfare, the Commission may, after notice and opportunity to be heard via a separate proceeding, nevertheless order the infrastructure improvements that it deems necessary and in the public interest. Under this scenario, the utility would only be able to seek cost recovery for these Commission-mandated repairs and replacements through the traditional manner of filing a base rate proceeding, not through the DSIC process.

IRRC states the proposed subsection should reference both sections 121.3 and 121.4 since the elements of an LTIIIP are found in the preceding section of the proposed regulation. We agree with this position and revise subsection 121.4(f) accordingly in the final form regulations.

Finally, IRRC notes that the citation to 5.423 in subsection 121.4(b) is not accurate. The Commission has made this correction in the final form regulation to accurately reference § 5.365 of our regulations.

#### *Section 121.5. Modifications to and expiration of an LTIIIP.*

##### *Comments*

As above, the OCA states that the proposed subsection 121.5(a) allows for only a twenty-day comment period following the submission of a petition for modification of an LTIIIP. The OCA asserts that a twenty-day comment period is an insufficient amount of time to allow for review of such modifications to the LTIIIP. OCA Comments at 6. Accordingly, the OCA recommends that this proposed subsection be modified to allow interested parties to have at least thirty days to review a petition for modification of an LTIIIP. Id. IRRC notes the OCA's proposal and requests the Commission to detail the factors it considered when determining that a twenty-day comment period was appropriate. IRRC Comments at 3.

In its comments, PECO notes proposed subsection 121.5(b) refers to "major changes." PECO states that the correct reference should be to "major modifications," which is defined in proposed Section 121.2. PECO Comments at 4. Additionally, PECO notes that "minor modifications" are to be addressed concurrent with Commission staff's review of the AAO Plan. PECO asserts that a utility is not required to file an AAO Plan unless it has an approved DSIC. Id. Accordingly, PECO states if a utility desires to make a minor modification to its LTIIIP, but does not have an approved DSIC, there is no process in the current proposed regulation for this to be handled. Id. IRRC notes PECO's comment about the concurrent review of minor modifications with the AAO Plan and asks the Commission to explain how this provision will be implemented. IRRC Comments at 3.

In their comments, EAP, Peoples, the FirstEnergy Companies and PECO all state that proposed subsection 121.5(c) should be revised to make it clear that a utility may choose not to file a new LTIIIP. EAP Comments at 7; Peoples Comments at 7; FirstEnergy Companies Comments at 3-4; PECO Comments at 5. The FirstEnergy Companies assert that the proposed subsection, as currently drafted, implies that an LTIIIP must always be in place regardless of whether the utility determines to continue or discontinue a DSIC mechanism. FirstEnergy Companies Comments at 3. Likewise, EAP and PECO express a similar concern about this proposed subsection.



EAP Comments at 7; PECO Comments at 5. EAP requests that this proposed subsection be amended to clarify that the filing of an LTIIIP is required only in conjunction with the DSIC. *Id.* EAP, PECO and the FirstEnergy Companies assert that the business decision to utilize a DSIC which requires the filing of an LTIIIP remains with the utility and it may choose to withdraw its LTIIIP at some point in the future. *Id.* at 7; PECO Comments at 5; FirstEnergy Companies Comments at 4. Additionally, Peoples states that such a revision to the proposed subsection would affect the voluntariness of both the filing of an LTIIIP and the utilization of a DSIC for future cost recovery by a utility. *Id.* Peoples further states that the revision should allow a utility to continue to recover through its DSIC the investment costs related to infrastructure improvements made during the term of the expiring LTIIIP but would not allow a utility to recover future investment costs related to future infrastructure improvements if it does not file a new LTIIIP. Peoples Comments at 8.

In its comments, the OCA states that proposed subsection 121.5(c) be modified to include references to the five-year interval for filing a new LTIIIP. OCA Comments at 9. Additionally, the OCA states that this proposed subsection should include language indicating that the filing time frames will be in accordance with the phased schedule it requested that the Commission implement above. *Id.*

#### *Resolution*

This section of the proposed regulations sets forth the procedures for modifying a Commission-approved LTIIIP to reflect any major modifications thereto during its term and for filing a new LTIIIP prior to the expiration of a previously filed plan. Proposed subsection 121.5(a) essentially states that major modifications to the LTIIIP will require the filing of a separate petition that is subject to comment from interested parties, while minor modifications will be considered along with the AAO Plan and disposed of via Staff action.

The Commission notes that the OCA states that proposed subsection 121.5(a) allows for only a twenty-day comment period following the submission of a petition for modification of an LTIIIP which it believes is an insufficient amount of time to allow for review of such modifications to the LTIIIP. The OCA recommends that this proposed subsection be modified to allow interested parties to have at least thirty days to respond to a petition for modification. We agree with the OCA's suggestion. The petition will set forth major modifications to the LTIIIP; therefore, we believe that there is a compelling reason to extend the response time. Accordingly, the period to respond to a petition for modification of an LTIIIP is extended to thirty days. Subsection 121.5(a) of the final form regulation incorporates this revision.

The Commission agrees with PECO's comments regarding proposed subsection 121.5(b) and will revise the term "major changes" to "major modifications" as defined in Section 121.2. The final form regulations will incorporate this revision.

The Commission notes the comments of EAP, Peoples, the FirstEnergy Companies and PECO stating that proposed subsection 121.5(c) should be revised to make it clear that a utility may choose not to file a new LTIIIP before the expiration of the prior LTIIIP. The commentators assert that the proposed subsection, as currently drafted, implies that an LTIIIP must always be in place regardless of whether the utility determines to continue

or discontinue a DSIC mechanism. FirstEnergy Companies Comments at 3. We agree with this assertion only in part.

The Commission believes that the decision to file a new LTIIIP before the expiration of the prior LTIIIP in order to continue with an approved DSIC mechanism, or even after the expiration of an LTIIIP in order to re-qualify for implementing a DSIC mechanism, to some degree, is a voluntary business decision by the utility. Thus, if a utility allows its LTIIIP to expire and chooses not to file a new LTIIIP the Commission believes that the utility has that option. Subsection 121.5(c) of the final form regulation incorporates this concept.

Nevertheless, the Commission cautions all utilities that simply electing not to file a new LTIIIP upon the expiration of the prior LTIIIP filing does not grant them the discretion or authority to forego necessary infrastructure improvements. As we stated above, a utility is under a statutory directive to provide reasonable, safe and reliable service. See 66 Pa.C.S. § 1501. If the Commission determines, after notice and opportunity to be heard, that infrastructure improvements are necessary for safe and reliable service, the public utility may not forgo performing these repairs. Act 11 was implemented to allow a utility to recover reasonable and prudently incurred costs related to the repair, improvement, and replacement of utility infrastructure outside of the traditional manner of filing a base rate case, not to give utilities the discretion to ignore making necessary repairs, replacements and improvements to aging distribution infrastructure. Accordingly, a utility has continuing statutory responsibility to repair and upgrade its distribution infrastructure in order to maintain adequate, efficient, safe and reliable service, regardless of the manner in which it can obtain cost recovery for the repairs, replacements and improvements to distribution infrastructure it has performed. 66 Pa.C.S. § 1501.

In its comments, the OCA requests that proposed subsection 121.5(c) be modified to include references to the five-year interval for filing a new LTIIIP. Additionally, the OCA states that this proposed subsection should include language indicating that the filing time frames will be in accordance with the phased schedule it requested that the Commission implement above. We did not establish a standard term for an LTIIIP per se, as we left it to the discretion of the utility whether to go with a five- or ten-year term for its individual LTIIIP. A utility is required to file a new LTIIIP within five years, only if the term of its prior LTIIIP is for five years. Thus, we will not revise this section of the regulations to include a reference to the five-year interval for filing a new LTIIIP. It is only incumbent for the utility to file its new LTIIIP 120 days before the expiration of the term [5 or 10 ten years] of its prior LTIIIP, if the utility desires to do so. Additionally, as we stated above, we also are not establishing a phased filing schedule for filing LTIIIPs. Thus, this subsection of the final form regulation will not incorporate OCA's requested revisions.

Lastly, the Commission takes note of PECO's comments concerning the absence of the process in the current proposed regulation for when a utility desires to make a minor modification to its LTIIIP, but does not have an approved DSIC. In the proposed regulations, we state that "minor" modifications to an LTIIIP will be addressed concurrent with the review of the filed AAO Plan. However, a utility that does not have a DSIC mechanism does not need to file an AAO Plan. Consequently, if a utility has an approved LTIIIP, but has not filed a DSIC, the utility need only file a revised, black-lined LTIIIP incorpo-

rating its minor modifications. In the alternative, the Commission strongly recommends that a utility file for a DSIC mechanism shortly after receiving approval of its LTIP, so the utility can promptly commence the repairs, replacements and improvements to its infrastructure that will ensure and maintain reliability and for which it can seek cost recovery. Therefore, we will not incorporate this concept into the final form regulation.

*Section 121.6. Asset Optimization Plan Filings.*

*Comments*

In their comments, both EAP and the FirstEnergy Companies seek clarification of the term “interested parties” as used in proposed subsection 121.6(a). EAP Comments at 7-8. FirstEnergy Companies Comments at 4. EAP states that a liberal construction of this term to include all parties involved in most recent base rate filings would be unwieldy. EAP Comments at 8. EAP and the FirstEnergy Companies recommend that the language of the proposed subsection be modified so that “interested parties” includes the statutory advocates or those persons who formally intervened and participated in the most recent base case proceeding. *Id.* at 8; FirstEnergy Companies Comments at 4.

The OCA states that proposed subsection 121.6(a) does not specify a time frame for comment regarding the annual filing of the AAO Plan. OCA Comments at 6. The OCA suggests that interested parties should be given forty-five days to review and comment on an AAO Plan. Additionally, the OCA further requests that the Commission establish a phased filing approach to ensure that Commission staff and interested parties have sufficient time to properly review the AAO Plans. *Id.* at 8.

In similar fashion, both EAP and PECO request that the Commission consider moving the March 1st deadline to submit the AAO Plan to April 1st since NGDCs are already obligated to file an annual report by March 15th with the United States Department of Transportation, which includes much of the relevant information requested to be included in the AAO Plan. PECO states that this will provide utilities with some additional time in order to comply with this new regulatory filing requirement, but will not create a material delay for other parties to review. PECO Comments at 5. IRRRC notes the concerns regarding the deadline to file the AAO Plan and the subsequent time frame for interested parties to file comments thereto and asks the Commission to consider the recommendations so that it can be provided with more accurate information and also provide interested parties with a more meaningful time frame for reviewing AAO Plans on a staggered basis. IRRRC Comments at 3.

Both EAP and PECO request clarification is needed as to whether the 12-month period in proposed subsection 121.6(b)(2) is a calendar year, a fiscal year or the twelve months beginning with the approval date of the DSIC. EAP Comments at 8; PECO Comments at 6. PECO recommends that the 12-month period be based on the utility’s fiscal year as this would align the annual utility budget and construction plans with the AAO Plan. *Id.* PPL recommends that the filing date for the AAO Plan be set three months after the end of the 12-month period used by the utility in its LTIP. PPL Comments at 5.

In their comments, EAP, PECO, Peoples and the FirstEnergy Companies all express concern about the requirement to include system reliability data for the prior five years set forth in proposed subsection 121.6(b)(3). EAP, PECO and the FirstEnergy Companies all note that Commission regulations covering electric

service reliability at 52 Pa. Code § 57.191(a)(3) already require EDCs to file an annual report addressing each of the electric reliability indices (SAIFI, CAIDI and SAIDI) for the EDCs’ individual service territories for each of the preceding three years. EAP Comments at 8; PECO Comments at 6; FirstEnergy Companies Comments at 4. EAP states it believes that a referral to the annual reliability reports will meet this requirement for EDCs inasmuch as Act 11 does not refer to reliability data as a separate component of an AAO. EAP Comments at 8. Similarly, PECO asserts that there should be no need to refile this information in a second report. PECO Comments at 6. The FirstEnergy Companies assert that this requirement is redundant of other Commission regulations. FirstEnergy Companies Comments at 4. Further, EAP states that clarification is needed how this requirement to include system reliability data affects NGDCs and whether the Commission would accept the type of information supplied annually by NGDCs in the context of the Winter Reliability Meeting. EAP Comments at 8.

Conversely, PECO states that if this requirement only relates to electric utilities, since they already furnish this same information in another report filed with the Commission, the requirement should be removed from the AAO Plan. PECO Comments at 6. Peoples asserts that system reliability data is not mentioned anywhere in Act 11, nor is an explanation given for its inclusion in the proposed regulation. Peoples Comments at 8. Peoples states that there is no apparent reason for the five-year system reliability requirement to be set forth in proposed paragraph 121.6(b)(3), and it is beyond the scope of Act 11. *Id.* Peoples states that, at a minimum, the Commission should explain how system reliability data relates to the AAO Plan and then clarify what system reliability data should be included with the AAO Plan filing. *Id.* Accordingly, Peoples states that the requirement should be deleted from the proposed regulation. *Id.* As an alternative, EAP also agrees with the suggestion to remove the requirement from the proposed regulation.

IRRC notes the above comments and asks the Commission to explain how the five-year system reliability requirement is consistent with Act 11, the relevancy of this type of information for utilities other than electric utilities and why the information is needed. IRRRC Comments at 4.

PPL, PECO, Duquesne, EAP and the FirstEnergy Companies all express concerns with the entirety of the process associated with the review of the AAO Plan set forth in proposed subsections 121.6(d) and (e). Specifically, PPL states that the AAO Plan could subject the LTIP to detailed review and scrutiny on an annual basis. PPL Comments at 4. PPL notes that depending on the Commission’s final definition of the term “major modification,” pursuant to proposed subsection 121.6(d), a utility may need to file for major modifications on a regular basis, which would mean that the LTIP would be subject to intense review on an annual or more than annual basis. *Id.* PPL asserts that the proposed review process for AAO Plans would be administratively burdensome, potentially redundant and a burden on limited Commission resources. *Id.*

Additionally, Duquesne states that the Commission’s review of an AAO Plan should be limited to whether the utility adhered to its LTIP, as it may not have sufficient information to make the determination that an additional major modification is necessary to ensure reliable service. Duquesne Comments at 5.

Similarly, PECO states that it believes that the intent of the AAO Plan filing requirement was to provide the Commission a means to determine if the utility was following its approved LTIIIP. PECO asserts that if a utility is not in compliance with its approved LTIIIP, it should not be required to modify its LTIIIP, rather it should be required to conform to the provisions of its approved plan. PECO Comments at 6. PECO further asserts that if the LTIIIP requires modifications because it is not in conformity with the law or Commission requirements, it should be handled separately in proposed Section 121.7 in connection with the periodic review of the LTIIIP. Id.

PPL states that AAO Plan filings should be treated as informational, rather than subjecting the utility to a mandatory review process. PPL proposes that the AAO Plan be treated as informational in the first instance, with no automatic opportunity for parties to comment and without the requirement of Commission approval within 60 days. PPL Comments at 4. Accordingly, PPL recommends that the AAO Plan be treated in a manner similar to a utility's annual maintenance filings pursuant to 52 Pa. Code § 57.198. Id. PPL states that this modification will not deprive the Commission of its opportunity to review the LTIIIP at any time, but will reduce potential redundancy in the filing and review process for the Commission without compromising the purpose of the AAO Plan. Id. at 5.

Furthermore, PECO states that it is unclear what would constitute an "adverse comment" as set forth in proposed subsection 121.6(e). PECO Comments at 7. PECO states that there is no definition provided for the term "adverse comment," and that it could be difficult to determine whether a comment is truly "adverse" based on its technical drafting. Id. Accordingly, PECO requests that the phrase be removed from the proposed subsection. Id. Additionally, PECO states that the intent of the AAO Plan is to provide a "check" for the Commission and other interested parties to ensure that the utility is operating in compliance with its LTIIIP. PECO states that there is no requirement in Act 11 for an AAO Plan to be approved as there is for the LTIIIP.

Likewise, EAP also requests that the term "adverse comments" be eliminated from proposed subsection 121.6(e). EAP Comments at 9. EAP states that the AAO Plan is an annual report to the Commission providing information and is not subject to public comment or approval. Id. EAP states that while the information in the AAO Plan may form the basis for an inquiry into whether the DSIC should be terminated, the AAO Plan filing itself is informational and not an adversarial or formal proceeding. EAP asserts that the use of the term "adverse comments" blurs that distinction, causes confusion and is not necessary. Id.

The FirstEnergy Companies also agree with PECO and EAP's suggestion that the term "adverse comments" be removed from proposed subsection 121.6(e). FirstEnergy Companies Comments at 4. Similar to EAP, the Companies assert state that the AAO Plan filing is not an adversarial or formal proceeding, but rather is an annual informational report to the Commission and is not subject to public comment. Id.

Based upon the above comments, IRRC asks the Commission to explain the rationale for proposed subsection 121.6(e) and why it is appropriate that the filing of "adverse comments" could delay the approval of an AAO Plan. IRRC Comments at 4.

### *Resolution*

This section of the proposed regulations sets forth the procedures for filing the AAO Plan and the elements for such a plan. This section also states that the AAO plan will be reviewed to determine whether the utility has adhered to its LTIIIP and whether any changes to the initial LTIIIP are necessary in order to maintain and improve the safety, adequacy and reliability of its existing distribution infrastructure. Absent any major modifications or changes, adverse comments or Commission action within 60 days, the filing will be deemed approved.

The Commission takes note of the commentators who express concern with the entirety of the process associated with the review of the AAO Plan. It is the position of the commentators that there is no corresponding requirement in Act 11 for an AAO Plan to be approved, or for a detailed review of the sufficiency of the LTIIIP. The commentators suggest that since the AAO Plan is simply an informational filing or nothing more than a status report to reflect the utility's progress in making the infrastructure improvements set forth in its approved LTIIIP, there is no need to have an automatic opportunity for parties to comment and they also request the elimination of the requirement that the Commission give its approval of the Plan within 60 days. The Commission agrees with the commentators' assertions only in part.

The public utility's filed LTIIIP indicates that it has carefully examined its current distribution infrastructure, including its elements, age, and performance, and established a reasonable and prudent schedule and planning of expenditures in order to accelerate the repair, improvement and replacement of this eligible property needed to maintain the safe, adequate, and reliable service over the term of the LTIIIP. The Commission acknowledges that the sole purpose of the AAO Plan is to subject the LTIIIP to a compliance review on an annual basis so as to track the utility's progress with performing the requisite repairs, replacements and improvement for the corresponding 12-month timeframe. It is the Commission's duty to determine whether the utility has fully complied with its LTIIIP and a review and approval of the filed AAO plan will ensure that the utility is operating in compliance with its LTIIIP.

However, the Commission believes that the review of an AAO Plan should be solely limited to whether the utility has complied with the work schedule and made the capital improvements set forth in the approved LTIIIP for the preceding 12-month period. The Commission is persuaded by PPL's recommendation that the review of the AAO Plan should be treated in a manner similar to a utility's annual inspection and maintenance filings pursuant to 52 Pa. Code § 57.198. Accordingly, the Commission will incorporate the concept that the AAO Plan will be treated in a similar fashion to a utility's annual inspection and maintenance filing in subsection 121.6(a) of the final form regulation.

With this determination to treat the AAO Plan similar to the maintenance reports filed under section 57.198 of our regulations, the commentators' concerns regarding the term "interested parties" as used in proposed subsection 121.6(a) and what constitutes an "adverse comment" to the AAO Plan in proposed subsection 121.6(e) are now moot. Therefore, the Commission deletes those provisions from the final form regulation. Additionally, for the reasons stated above, the Commission will not adopt the OCA's suggestion that "interested" parties be given forty-five days to comment on a filed AAO Plan as these plans do not require public comment.

The Commission takes note of the various recommendations regarding the filing date of the AAO Plan. The OCA requests that the Commission establish a phased filing approach to ensure that Commission staff and interested parties have sufficient time to properly review the AAO Plans. Similarly, PPL recommends that the filing date for the AAO Plan be set three months after the end of the 12-month period used by the utility in its LTIP. In regard to the filing date of the AAO Plan, both EAP and PECO request that the Commission consider moving the March 1st deadline to submit the AAO Plan to April 1st since NGDCs are already obligated to file an annual report by March 15th with the United States Department of Transportation, which includes much of the relevant information requested to be included in the AAO Plan.

The Commission agrees with the OCA that a phased filing schedule for the AAO Plan is necessary so that the Commission and interested parties are not inundated all at once with AAO plans from each utility that has an approved DSIC mechanism. Therefore, we will adopt in part PPL's recommendation that the AAO Plan be filed in a specified time frame after the end date of the 12-month period used by the utility in its LTIP. The Commission revises subsection 121.6(a) so that the filing date for a utility to file its AAO Plan is 60 days after the 12-month period used by the utility in its LTIP. The final form regulation incorporates this revision.

Both EAP and PECO suggest that clarification is needed as to whether the 12-month period in proposed subsection 121.6(b)(2) is a calendar year, a fiscal year or the twelve months beginning with the approval date of the DSIC. Section 1356 of the Code states that the AAO Plan shall include a description that specifies all eligible property repaired, improved and replaced in the immediately preceding 12-month period pursuant to the utility's LTIP and prior year's AAO Plan (if applicable). 66 Pa.C.S. § 1356. Thus, the Commission opines that if the utility's filed LTIP was based on a fiscal year or reflected a calendar year, then the 12-month time frame reflected in the subsequently filed AAO Plan should correspond to that same specific 12-month time frame used in the LTIP. Accordingly, we decline to specify in the final form regulation whether the 12-month time frame in an AAO Plan set forth in subsections 121.6(b)(1) and (2) is a fiscal year, calendar year or the anniversary date of the approval of the LTIP.

The Commission takes note of the comments of EAP, PECO, and Peoples, which all express concern about the requirement set forth in proposed subsection 121.6(b)(3) to include system reliability data for the prior five years in the AAO Plan. Peoples asserts that system reliability data is not mentioned anywhere in the Act 11, nor is an explanation given for its inclusion in the proposed regulation. Furthermore, EAP, PECO and the FirstEnergy Companies all note that Commission regulations covering electric service reliability at 52 Pa. Code § 57.191(a)(3) already require EDCs to file an annual report of each of the electric reliability indices (SAIFI, CAIDI and SAIDI) for the EDCs' individual service territories for each of the preceding three years. EAP also states it believes that a referral to the annual reliability reports will meet this requirement for EDCs inasmuch as Act 11 does not refer to reliability data as a separate component of an AAO Plan. We agree with this position.

The Commission determines that there is no need to include system reliability data for the prior five years in the AAO Plan. First, we determine that requesting this information is beyond the scope of the AA&O Plan review. Section 1356(a) only requires that the AA&O Plan include

the following: (1) a description that specifies all eligible property repaired, improved and replaced in the immediately preceding 12-month period pursuant to the utility's long term infrastructure improvement plan and (2) a detailed description of all the facilities to be improved in the upcoming year. 66 Pa.C.S. §§ 1356(a)(1) and (2). Secondly, the Commission notes that water, wastewater companies and NGDCs are not required to file any system reliability or performance data with us. NGDCs file this information in their annual reports filed to US DOT as per 49 CFR Part 191. Additionally, water and wastewater companies are not required to file system reliability data with the Commission but rather with the Pennsylvania Department of Environmental Protections and the U.S. Environmental Protection Agency. As such, there is no need to request this information in the AAO Plans submitted by NDGCs, water and wastewater companies. Additionally, the Commission's regulations already require EDCs to report annually their electric service reliability indices for their individual service territory for each of the preceding three years, it would be redundant to require the filing of this same or similar information in the AAO Plan. In any event, as we determine below, the Commission can review this reliability information when it conducts the periodic review of the LTIP to determine if the plan is sufficient to ensure and maintain adequate, efficient, safe, reliable and reasonable service. During that review, EDCs can supply a reference to their reliability reports filed subject to another section of our regulations. Accordingly, there is no need to have this as a separate detailed component of the AAO Plan since this information is not filed with us in the first instance or is already required to be filed pursuant to another section of our regulations and more appropriately reviewed in the periodic review of the LTIP. Thus, this requirement is removed from the final form regulation.

The Commission also notes PECO's comments that if a utility is not in compliance with its approved LTIP, it should not be required to modify its LTIP but rather should be required to conform to the provisions of its approved plan. However, if a review of the utility's AAO Plan indicates that it was unable to comply with its own schedule as it may have been ambitious in first developing it or because extraneous circumstances may have arose that have impacted its planned schedule, we believe it appropriate that the utility be given the option to file a petition for modification to the LTIP. For unforeseen reasons, a utility may need to file for major modifications, but we do not believe that this would be administratively burdensome, potentially redundant or a burden on limited Commission resources. Nonetheless, if an AAO Plan indicates that a utility has a pattern of non-compliance with its filed LTIP, then that will be addressed by the Commission separately in proposed Section 121.7 in connection with the periodic review of the LTIP.

#### *Section 121.7. Periodic Review of LTIP*

PECO states it is unclear why the periodic review of the LTIP at least once every five years is necessary as set forth in proposed subsection 121.7(a), if the LTIP is already reviewed annually as set forth in proposed Section 121.6 in connection with the filing of the AAO Plan. PECO Comments at 7. PECO asserts that since the Commission will already be checking the adequacy and reliability of the LTIP annually as part of the AAO Plan review process, it believes that there is no additional need for further review every five years, unless the proposed AAO Plan review process is revised to determine only whether a utility is in compliance with its LTIP and not

as a tool to analyze the appropriateness of the LTIP. Id. at 8. PPL also recommends that this proposed subsection be modified to provide that the five year review requirement might be satisfied by the review of a proposed LTIP which replaces an expiring five-year LTIP. Id.

Duquesne requests the Commission to consider modifying the language contained in proposed subsection 121.7(b)(2) to limit the review to a determination of whether the utility has adhered to its LTIP. Duquesne states that it is concerned that the Commission may not have sufficient information to make the determination that changes to the LTIP are necessary to maintain the efficiency, safety, adequacy and reliability of the utility's existing distribution infrastructure.

Additionally, PECO states the proposed subsection 121.7(d) should be modified so that the utility may have the ability to withdraw its LTIP if found to be inadequate or if the utility does not wish to continue with it. Id.

Lastly, Duquesne states that it believes that the proposed regulation does not address how previously-approved DSIC charges would be treated while awaiting the Commission's action to approve a refiled LTIP. Duquesne Comments at 4. Duquesne suggests the Commission add language stating the following, "DSIC charges currently in effect pursuant to a previously-approved LTIP may continue to be charged if the Commission does not approve the new LTIP within the 120 days or rejects the new LTIP." Id.

IRRC references these suggestions in its comments and asks the Commission to explain why the language of this section is reasonable. IRRC Comments at 4.

#### *Resolution*

This section of the proposed regulations sets forth the procedures for the periodic review of the LTIP, as required by Act 11. 66 Pa.C.S. § 1352(b)(1). The proposed section states that a periodic review shall be conducted "at least once every five years" or more frequently if deemed necessary and, upon such review, the utility may have to revise or update its LTIP.

The Commission acknowledges those comments that state that the periodic review of the LTIP at least once every five years is unnecessary as set forth in proposed subsection 121.7(a), if the LTIP is already extensively reviewed annually as has been set forth in proposed Section 121.6 in connection with the filing of the AAO Plan. However, we have revised and limited the scope of the entire AAO Plan review, so that now the periodic review of the LTIP remains a necessary and integral part of the entire DSIC process. The Commission determines that during this periodic review, the utility's LTIP will be subject to a determination of whether it has remained adequate and sufficient to ensure reliable and reasonable service during its term. See generally 66 Pa.C.S. § 1352(a)(7).

The Commission determines that the periodic review of the LTIP process will include (1) whether the utility has adhered to the parameters of its LTIP and (2) whether changes to the LTIP are necessary to continue to maintain the efficiency, safety, adequacy and reliability of the utility's existing distribution infrastructure. However, the Commission is of the opinion that this periodic review can be a rather streamlined process. While the periodic review of the LTIP will entail a thorough, comprehensive and detailed review of the utility's LTIP, the Commission

notes that most of the information the utility would have to submit in order to meet the threshold determinations above are already being filed or prepared by it under different regulations. For example, the utility would have already filed AAO Plans that indicate that it is in compliance with the work schedule and capital expenditures set forth in the LTIP. Additionally, as of the result of the accelerated work that has been performed by the utility, the reliability of the utility's distribution infrastructure should have increased and the risk of outages should have been reduced.

Thus, during this periodic review, the Commission foresees EDCs supplying a reference to the reliability reports they already file with us subject to another section of our regulations. See generally 52 Pa. Code §§ 57.191—57.198. Furthermore, we also expect NGDCs to include a reference to system leak data that is required by the annual US DOT 7100 filed pursuant to 49 CFR Part 191. Moreover, we state that the Commission would also accept a reference to the type of information supplied by NGDCs in the context of the Winter Reliability Meeting. The Commission believes that this information is necessary in order to determine whether the repairs, improvements or replacements performed by the utility at the time of the periodic review have resulted in increased reliability. See generally 66 Pa.C.S. § 1352(a)(6).

Furthermore, we decline to adopt PPL's recommendation that the five year review requirement might be satisfied by the review of a proposed LTIP which replaces an expiring five-year LTIP. In order to be truly effective, the periodic review must be done during the term of the LTIP, not when it is set to expire.

The Commission takes note of the comments that state proposed subsection 121.7(d) should be modified so that the utility may have the ability to withdraw its LTIP if found to be inadequate, or if the utility does not wish to continue with it. We agree with this suggestion. If during the periodic review, the Commission determines that the LTIP has not increased the reliability of a utility's infrastructure or is no longer sufficient or adequate to ensure or maintain efficient, adequate, safe and reliable service, the Commission shall direct the utility to revise its LTIP, update or re-submit its LTIP. See 66 Pa.C.S. § 1352(a)(7).

Notwithstanding this statutory provision, consistent with our statements above, the utility may also elect to withdraw its LTIP pursuant to the pertinent Commission regulations. See generally 52 Pa. Code §§ 1.82 and 5.94. However, if the utility determines to withdraw its LTIP, the utility will risk not being able to recover any future expenses under its DSIC mechanism. Conversely, if the utility decides to resubmit or refile a revised plan, the utility may recover the previously-approved DSIC charges for the remaining term of the LTIP if the necessary future repair and replacement work is performed by the utility. The Commission incorporates this position in the final form regulation.

#### *Section 121.8. Enforcement of LTIP Implementation.*

##### *Comments*

In its comments, EAP contends that an LTIP is not a stand-alone obligation but rather a detailed infrastructure replacement plan filed by a utility seeking approval of a DSIC. EAP Comments at 9. Accordingly, EAP states that Act 11 provides a specific and suitable remedy for failure of a utility to comply to the LTIP, which is revocation of,

and zeroing-out of, the DSIC. Id. EAP suggests that the reference to civil penalties and “other remedies” is not in accord with the statutory language and should be removed from the proposed enforcement actions identified in proposed subsection 121.8(c).

Likewise, PECO states that it does not believe that a remedy for non-compliance with an approved LTIIP should include “civil penalties.” PECO Comments at 8. PECO states that the non-compliance standard is too indefinite to provide any meaningful assurance that a utility will not find itself subject to a civil penalty for a deviation that is not deemed after the fact to be “minor.” Additionally, PECO asserts that if a utility is not in compliance with its LTIIP, the appropriate remedy is for the utility to cease being permitted to use its DSIC and the ability to collect thereunder. Id.

Furthermore, the FirstEnergy Companies state that proposed subsection 121.8(c) implies that Act 11 creates separate, identifiable penalty provisions outside the pre-existing statutory framework of the Code. FirstEnergy Comments at 4. The FirstEnergy Companies assert that the existing penalty provisions of Chapter 33 of the Code provide adequate penalty measures for violations of the Code, including Act 11, and should not be augmented by Commission regulations not anticipated in Act 11. FirstEnergy Comments at 5. The FirstEnergy Companies state the only measure specifically identified in Act 11 that can remotely be considered a penalty is provided at 66 Pa.C.S. § 1352(b), and that is the termination of the utility’s DSIC if the utility is found to be noncompliant with its LTIIP. Id.

The OCA states that proposed subsection 121.8(c) is not consistent with Act 11. OCA Comments at 10. The OCA states that clearly the legislative language concerning termination of the DSIC is mandatory, not optional, in instances where the Commission determines that the utility is not in compliance with the approved LTIIP. Id. Accordingly, the OCA asserts that this proposed subsection should be changed to bring the regulation into conformity with the requirement of the statute that the DSIC mechanism terminate if the Commission finds that a utility is not in compliance with its plan. Id.

In light of the above comments regarding proposed subsection 121.8(c), IRRC asks the Commission to explain why the imposition of penalties is reasonable.

#### *Resolution*

This section of the proposed regulations addresses the enforcement of Act 11 and the remedies the Commission may prescribe for a utility’s noncompliance with its Commission-approved LTIIP. The section also provides that variations in individual years and non-material changes from the Commission-approved LTIIP will not be a basis for an enforcement action. Any enforcement actions filed will be referred to the Office of Administrative Law Judge (OALJ) for hearing and decision.

The Commission takes note of the comments regarding the inclusion of civil penalties as a remedy for non-compliance with an approved LTIIP. We agree that Act 11 expressly provides one remedy for failure for a utility to comply with the LTIIP, which is the termination of the utility’s DSIC mechanism. When the Commission has determined, after notice and opportunity to be heard, that certain infrastructure improvements, as set forth in the utility’s LTIIP, are necessary to maintain safe and adequate service to consumers and where the utility nevertheless, and without adequate justification, fails to adhere

to its LTIIP, the appropriate remedy in the instant LTIIP enforcement proceeding is termination of the utility’s approved DSIC mechanism.

However, by not being in compliance with its LTIIP, the utility will have raised a substantial question as to whether it is in compliance with the statutory directive set forth in section 1501 of the Code of providing adequate, efficient, safe and reasonable service and facilities, and civil penalties may also be applicable in a separate proceeding.

As explained earlier herein, the utility is obligated to make the repairs and improvements necessary to ensure safe and reliable service. Failure to do so is a violation of Section 1501 of the Code. 66 Pa.C.S. § 1501. And, both civil penalties under Section 3301 and specific performance are potential remedies for failure to adhere to a Commission-approved LTIIP. Accordingly, the Commission retains separate statutory authority to impose other remedies for the failure of a utility to perform the necessary infrastructure improvements to ensure and maintain reasonable service. 66 Pa.C.S. §§ 1501 and 3301. Whether any such remedies are appropriate would be determined, on a case by case basis, after notice and opportunity to be heard in a separate enforcement proceeding, not in the LTIIP enforcement proceeding.

Therefore, for purposes of these regulations under Act 11, the Commission removes the reference to imposing “civil penalties” and “other remedies” in an enforcement action identified in subsection 121.8(c) of the final form regulation.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 3, 2013, the Commission submitted a copy of the notice of proposed rulemaking, published at 43 Pa.B. 6206 (October 19, 2013), to IRRC and the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Commission has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on November 5, 2014, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 6, 2014, and approved the final-form rulemaking.

#### *Conclusion*

We again thank those interested parties who filed comments on the proposed subsections of the regulation. We find that the regulations to establish procedures for the implementation and review of a long term infrastructure improvement plan as set forth in Annex A should be approved. Accordingly, under sections 501, 1350—1360 and 1501 of the Public Utility Code (66 Pa.C.S. §§ 501, 1350—1360 and 1501) and the Commonwealth Documents Law, sections 1201 and 1202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201, et seq.) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.5, section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732.204(b)); section 745.5 of the Regulatory Review Act (71 P.S. § 745.5); and section 612

of The Administrative Code of 1929 (71 P. S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.235, we add the regulations at 52 Pa. Code §§ 121.1—121.7 to read as set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. The regulations of the Commission, 52 Pa. Code, are amended by adding §§ 121.1—121.8 to read as set forth in Annex A.

2. A copy of this Order and Annex A shall be served upon the Energy Association of Pennsylvania, all jurisdictional electric distribution companies, natural gas utilities, all water and wastewater utilities, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate.

3. The Secretary shall certify this Order and Annex A and deposit them with the Legislative Bureau for publication in the *Pennsylvania Bulletin*.

4. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

5. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

6. The Secretary shall submit this order and Annex A for review by the designated standing committees of both houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.

7. The final regulations become effective upon publication in the *Pennsylvania Bulletin*.

8. The contact person for this rulemaking is Assistant Counsel David E. Screven, Law Bureau (717) 787-2126, dscreven@pa.gov. Alternate formats of this document are available for persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, (717) 772-4597.

ROSEMARY CHIAVETTA,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 7424 (November 22, 2014).)*

**Fiscal Note:** Fiscal Note 57-294 remains valid for the final adoption of the subject regulations.

### Annex A

## TITLE 52. PUBLIC UTILITIES

### PART I. PUBLIC UTILITY COMMISSION

#### Subpart G. DISTRIBUTION SYSTEM IMPROVEMENT CHARGE

#### Chap.

#### 121. LONG-TERM INFRASTRUCTURE IMPROVEMENT PLAN

#### CHAPTER 121. LONG-TERM INFRASTRUCTURE IMPROVEMENT PLAN

Sec.	
121.1.	Purpose.
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121.4.	Filing and Commission review procedures.
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121.6.	AAO plan filings.
121.7.	Periodic review of an LTIIIP.
121.8.	Enforcement of LTIIIP implementation.

#### § 121.1. Purpose.

To be eligible to recover the reasonable and prudently incurred costs regarding the repair, improvement and replacement of eligible property from a DSIC, a utility shall submit an LTIIIP for Commission approval. See 66 Pa.C.S. § 1353 (relating to distribution system improvement charge). The LTIIIP must show the acceleration of the replacement of aging infrastructure by the utility and be sufficient to ensure and maintain adequate, efficient, safe, reliable and reasonable service to customers.

#### § 121.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*AAO plan—Annual asset optimization plan*—The plan and supporting documents identified in 66 Pa.C.S. § 1356 (relating to asset optimization plans) that specify the eligible property repaired, improved or replaced by a utility under its Commission-approved LTIIIP.

*DSIC—Distribution system improvement charge*—A charge imposed by a utility to recover the reasonable and prudent costs incurred to repair, improve or replace eligible property that is part of the utility's distribution system under 66 Pa.C.S. § 1353 (relating to distribution system improvement charge).

*Eligible property*—Property that is part of a distribution system and eligible for repair, improvement and replacement of infrastructure as defined in 66 Pa.C.S. § 1351 (relating to definitions).

*LTIIIP—Long-term infrastructure improvement plan*—The plan and supporting documents identified in 66 Pa.C.S. § 1352(a) (relating to long-term infrastructure improvement plan) that shall be submitted to and approved by the Commission for a utility to be eligible to recover costs from a DSIC mechanism, which includes information regarding the utility's eligible property and its repair and replacement schedule.

*Major modification*—A change to a utility's previously approved LTIIIP which meets at least one of the following criteria:

(i) Eliminates a category of eligible property from the LTIIIP.

(ii) Extends the schedule for repair, improvement or replacement of a category of eligible property by more than 2 years.

(iii) Increases the total estimated cost of the LTIIIP by more than 20%.

(iv) Otherwise reflects a substantial change to the current Commission-approved LTIIIP.

*Qualified personnel*—An individual who, by possession of a recognized degree, certificate or professional standing, or who by extensive knowledge, training and experience, has successfully demonstrated his ability to solve or resolve problems relating to the subject matter, the work or the project as established by the United States Department of Labor, Occupational Safety and Health Administration in 29 CFR 1926.32 (relating to definitions).

*Utility*—A natural gas distribution company, electric distribution company, water utility, wastewater utility or city natural gas distribution operation subject to the jurisdiction of the Commission.

**§ 121.3. LTIIIP.**

(a) A utility seeking to implement a DSIC mechanism or to continue a previously-approved DSIC mechanism shall file an LTIIIP. The LTIIIP must include the following elements:

- (1) Identification of types and age of eligible property owned and operated by the utility for which it is seeking DSIC recovery.
- (2) An initial schedule for planned repair and replacement of eligible property.
- (3) A general description of location of eligible property.
- (4) A reasonable estimate of quantity of eligible property to be improved or repaired.
- (5) Projected annual expenditures and means to finance the expenditures.
- (6) A description of the manner in which infrastructure replacement will be accelerated and how repair, improvement or replacement will ensure and maintain adequate, efficient, safe, reliable and reasonable service to customers.
- (7) A workforce management and training program designed to ensure that the utility will have access to a qualified workforce to perform work in a cost-effective, safe and reliable manner.
- (8) A description of a utility's outreach and coordination activities with other utilities, Department of Transportation and local governments regarding the planned maintenance/construction projects and roadways that may be impacted by the LTIIIP.

(b) The LTIIIP must address only the specific property eligible for DSIC recovery.

**§ 121.4. Filing and Commission review procedures.**

(a) A utility seeking to implement a DSIC mechanism or to continue a previously-approved DSIC mechanism shall file an LTIIIP for Commission approval. The LTIIIP shall be filed with the Commission's Secretary's Bureau with copies served upon the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and the parties of record in the utility's most recent base rate case. Service is evidenced by a certificate of service filed with the LTIIIP.

(b) An LTIIIP is a public document. If a utility believes that a portion of the information in the LTIIIP qualifies as confidential security information under section 2 of the Public Utility Confidential Security Information Disclosure Protection Act (35 P.S. § 2141.2) or should be afforded proprietary and confidential treatment, the utility shall request proprietary treatment of the information pursuant to a protective order. See §§ 5.365 and 102.1—102.4 (relating to orders to limit availability of proprietary information; and confidential security information). Confidential security information in the LTIIIP shall be marked confidential by the utility and excluded from the public version of the filing.

(c) LTIIIP filings are subject to a 30-day comment period. The LTIIIP will be reviewed by Commission staff. The LTIIIP will be referred to the Office of Administrative Law Judge for hearings and a decision if comments raise material factual issues.

(d) A utility has the burden of proof to demonstrate that its proposed LTIIIP and associated expenditures are reasonable, cost effective and are designed to ensure and maintain efficient, safe, adequate, reliable and reasonable service to consumers.

(e) The Commission will review the filed LTIIIP and determine if the LTIIIP:

- (1) Contains measures to ensure that the projected annual expenditures are cost-effective.
- (2) Specifies the manner in which it accelerates or maintains an accelerated rate of infrastructure repair, improvement or replacement.
- (3) Is sufficient to ensure and maintain adequate, efficient safe, reliable and reasonable service.
- (4) Meets the requirements of § 121.3(a) (relating to LTIIIP).

(f) If the utility's LTIIIP, which has been filed for the purpose of implementing a DSIC mechanism or to continue a previously-approved DSIC mechanism, does not meet the criteria in this section or in § 121.3(a), the Commission will order the utility to file a new or revised LTIIIP.

(g) If the Commission determines that the utility must file a new or revised LTIIIP under subsection (f), the utility may elect to withdraw its filed LTIIIP under § 1.82 or § 5.94 (relating to withdrawal or termination; and withdrawal of pleadings in a contested proceeding). If the utility elects to withdraw its LTIIIP filing, the utility is not eligible to implement its proposed DSIC mechanism or to continue its previously-approved DSIC mechanism.

**§ 121.5. Modifications to and expiration of an LTIIIP.**

(a) If a utility elects to modify a Commission-approved LTIIIP during its term to incorporate a major modification to any of the elements in § 121.3(a) (relating to LTIIIP), the utility shall file a separate petition for modification. The utility shall clearly identify the change and explain the operational, financial or other justification for the change in its petition. The petition will be subject to notice and an opportunity to be heard by interested parties. Parties shall have 30 days to file comments to the petition.

(b) Minor modifications to an LTIIIP that are changes that do not qualify as major modifications as defined in § 121.2 (relating to definitions) will be addressed concurrently with Commission staff's review of the utility's AAO plan, if applicable.

(c) A utility seeking to continue its DSIC mechanism after expiration of its LTIIIP shall file a new LTIIIP with the Commission at least 120 days prior to the expiration of a currently-effective LTIIIP. The new LTIIIP must contain the elements in § 121.3(a) and is subject to the review under § 121.4 (relating to filing and Commission review procedures). If the utility fails to file a new LTIIIP before the expiration of its prior LTIIIP, the approved DSIC mechanism will terminate upon expiration of the prior LTIIIP.

**§ 121.6. AAO plan filings.**

(a) A utility with an approved DSIC shall file with the Commission, for informational purposes, an AAO plan. The AAO plan shall be filed annually with the Commission 60 days after the 12 months of its LTIIIP has expired and under this time frame for each successive year of the term of the LTIIIP.

(b) An AAO plan must include:

- (1) A description that specifies all the eligible property repaired, improved and replaced in the prior 12-month period under its LTIIIP and prior year's AAO plan.



(2) A description of the eligible property to be repaired, improved and replaced in the upcoming 12-month period.

(c) If a utility determines that a major modification to its LTIP is necessary once it has finalized its AAO plan, it shall submit a separate petition for modification as set forth in § 121.5(a) (relating to modifications to and expiration of an LTIP) to the Commission.

(d) An AAO plan will be reviewed by the Commission only to determine whether the utility is in substantial compliance with the repairs, improvements or replacements of the specific eligible property in its approved LTIP for the corresponding 12-month time frames.

(e) Absent any major modifications to the LTIP or Commission action to reject an AAO plan within 60 days of its submission to the Commission, the AAO plan will be deemed approved. The Commission may extend its consideration period if necessary.

(f) If an AAO plan is rejected by the Commission, the utility will be notified of the plan's deficiencies and actions needed to repair, improve or replace eligible property to bring the utility into compliance with the work schedule in its approved LTIP. If the utility concludes that it needs to revise its LTIP to comply with the Commission's determinations, it shall file a petition for modification under § 121.5.

#### § 121.7. Periodic review of an LTIP.

(a) The Commission will review a utility's LTIP at least once every 5 years or more frequently if deemed necessary to address safety, reliability or other issues related to the approved LTIP.

(b) The Commission's review will determine:

- (1) If the utility has adhered to its LTIP.
- (2) If changes to the LTIP are necessary to maintain and improve the efficiency, safety, adequacy and reliability of its existing distribution infrastructure.

(c) Unless otherwise directed, the Commission's periodic review will begin at the midpoint of the term of the current LTIP. The Commission will, by means of a Secretarial Letter, establish a schedule for comments and reply comments to aid in its periodic review.

(d) If the Commission determines during this periodic review that a utility's approved LTIP is no longer adequate to ensure and maintain efficient, adequate, safe, reliable and reasonable service, the Commission will direct the utility to revise, update or resubmit its LTIP as appropriate. If the utility elects to withdraw its LTIP filing under § 5.94 (relating to withdrawal of pleadings in a contested proceeding), the utility's approved DSIC mechanism will immediately terminate and the utility may not recover the expenses for the work it has performed until it files a base rate proceeding.

#### § 121.8. Enforcement of LTIP implementation.

(a) A utility with a Commission-approved LTIP is obligated to comply with the infrastructure replacement schedule and elements of that LTIP. Compliance with the LTIP will be evaluated on a multiyear basis over the life of the LTIP. Construction expenditure variations in individual years and minor changes or deviations from the Commission-approved LTIP may not be the basis for an enforcement complaint.

(b) A Commission-approved LTIP may be subject to enforcement complaints brought by statutory advocates and other interested persons. Enforcement complaints may be referred to the Office of Administrative Law Judge for hearings and a decision, as appropriate.

(c) The remedy for noncompliance with an approved LTIP is the termination of the utility's approved DSIC mechanism.

[Pa.B. Doc. No. 14-2619. Filed for public inspection December 19, 2014, 9:00 a.m.]

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

#### [ 58 PA. CODE CHS. 95, 109 AND 111 ]

#### Boating

The Fish and Boat Commission (Commission) amends Chapters 95, 109 and 111 (relating to manufacturer installed equipment; specialty boats and waterskiing activities; and special regulations counties). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

#### A. *Effective Date*

The final-form rulemaking will go into effect on January 1, 2015.

#### B. *Contact Person*

For further information on the final-form rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. *Statutory Authority*

The amendments to §§ 95.3 and 109.2 (relating to lights for boats; and paddleboards and sailboards) are published under the statutory authority of section 5123 of the code (relating to general boating regulations). The amendment to § 111.49 (relating to Northumberland County) is published under the statutory authority of section 5124 of the code (relating to particular areas of water).

#### D. *Purpose and Background*

The final-form rulemaking is designed to improve, enhance and update the Commission's boating regulations. The specific purpose of the amendments is described in more detail under the summary of changes. The Commission solicited the advice and opinion of its Boating Advisory Board on the proposed amendments prior to final adoption.

#### E. *Summary of Changes*

(1) Section 95.3 provides boaters with information on the requirements for types, configurations and locations of navigation lights on boats. These provisions are within the actual wording of the regulation and by reference to former Appendix A and the Inland Navigation Rules Act of 1980 (repealed).

Based on a recent review of § 95.3, the Commission determined that it should be amended for a number of reasons. While there is a reference in § 95.3 to the Inland Navigation Rules Act of 1980, Pennsylvania courts have found there is not explicit language within the regulation that states a boater must comply with these specific Federal rules. In addition, the Inland Navigation Rules Act of 1980 was moved in 2010 to 33 CFR Part 83 (relating to rules).

Section 95.3 also does not specifically incorporate the language of 33 CFR 83.20(b) (relating to application (Rule 20)), also referred to as Rule 20, which states:

Rules concerning lights complied with from sunset to sunrise; other lights. The Rules concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout.

Pennsylvania courts have strictly construed the language of § 95.3 and have not interpreted it to mean that a boater must refrain from using other lights or if other lights are used they may not impair the visibility or distinctive character of the required lights. The Commission's waterways conservation officers have encountered challenges with successfully prosecuting more severe violations such as boating under the influence when lighting deficiencies have been cited as probable cause to conduct a boarding.

For these reasons, the Commission amends § 95.3 to more closely reflect the lighting requirements in 33 CFR Part 83 and delete the reference to Appendix A. The Commission further deletes Appendix A and relies solely on the narrative. These amendments are not a substantive change to lighting requirements for recreational boaters. The Commission amends § 95.3 to read as set forth in Annex A.

(2) In recent years, paddleboarding has been gaining popularity. Paddleboards were traditionally used to surf in the ocean but are now being used in lakes and rivers. Paddleboards resemble oversized surfboards and models are designed for use on various water conditions. Paddleboards are primarily operated by a person standing on the board using a paddle in a manner similar to a canoe.

The Commission amends § 109.2 to classify paddleboards as boats, to address safety issues and concerns, and to provide clarity for operators regarding legal requirements for paddleboards that include a United States Coast Guard approved wearable life jacket for each person on board, a sound producing device, visual distress signals (if operating on Lake Erie) and proper navigation lights. In addition, a Commission use permit, boat registration, or Pennsylvania State Parks launch permit or mooring permit is required if launching or retrieving a paddleboard at a Commission-owned or Commission-controlled lake or access area or State park or forest. The Commission amends § 109.2 to read as set forth in Annex A.

(3) The Commission did not take action on the proposed amendments to § 109.4 (relating to waterskiing, aquaplaning, kiteskiing and similar activities) with respect to the use of airborne devices.

(4) Section 111.49 designates a slow, no wake zone on the southeastern shore of Packer's Island (incorrectly referred to as Packard's Island) in the Susquehanna River adjacent to Shikellamy State Park in Sunbury. The river at Sunbury is dammed by an inflatable structure controlled by the Department of Conservation and Natural Resources. The water impounded by this dam forms a 3,060-acre lake known as Lake Augusta. The lake extends several miles up both the West Branch and the main

stem of the Susquehanna River and provides a variety of angling and boating opportunities. Shikellamy State Park is located on the tip of Packer's Island, which is also the location of a number of homes, cottages, campsites, a boat club and an airport.

The current slow, no wake zone is approximately 1/3 mile in length and was established by regulation in 1995 due to the number and activity of motorboats in this area and the resulting congestion problem around the Shikellamy State Park launch ramp and boat club. The presence of two bridges immediately upstream of the Shikellamy State Park launch ramp limits visibility for boaters and provided additional justification for the slow, no wake designation. Buoys mark the upper and lower limits of the control zone, and appropriate intermediate points. The lengthy nature of this control zone results in boater confusion and unnecessarily inhibits use of a significant segment of the boating pool in this area. The Commission therefore proposed changing the upper limit of the slow, no wake zone to a distance of 200 feet above the Route 147 bridge.

In this final-form rulemaking, the Commission amends § 111.49 with one point of clarification in addition to the amendments in the proposed rulemaking. The Commission clarifies that the downriver boundary is 250 feet downriver from the Shikellamy State Park boat launch. The Commission adopts the upper limit as being 200 feet above the Route 147 bridge and corrects the name of the island as proposed. The Commission amends § 111.49 to read as set forth in Annex A.

#### F. Paperwork

The final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

#### G. Fiscal Impact

The final-form rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will not impose new costs on the private sector or the general public.

#### H. Public Involvement

Notice of proposed rulemaking was published at 44 Pa.B. 4360 (July 12, 2014). The Commission did not receive comments regarding the proposed amendments to §§ 95.3 and 109.2. Regarding the proposed amendment to § 111.49, the Commission received 6 public comments before and 39 during the formal comment period supporting the amendment. Copies of all public comments were provided to the Commissioners. In addition, the Commission held a meeting at Shikellamy State Park on July 31, 2014, to gather public input on the proposed amendment.

#### Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided and all public comments that were received were considered.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

*Order*

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 95, 109 and 111, are amended by amending §§ 95.3, 109.2 and 111.49 and deleting Chapter 95, Appendix A to read as set forth in Annex A.

(*Editor's Note:* The proposed amendments to § 109.4 published at 44 Pa.B. 4360 are not adopted in this final-form rulemaking.)

(b) The Executive Director will submit this order and Annex A to the Office of Attorney General for approval as to legality and form as required by law.

(c) The Executive Director shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on January 1, 2015.

JOHN A. ARWAY,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-258 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart C. BOATING**

**CHAPTER 95. MANUFACTURER INSTALLED EQUIPMENT**

**§ 95.3. Lights for boats.**

(a) *General rule.* The navigation lights requirements in this section shall be complied with in all weather from sunset to sunrise on the waters of this Commonwealth. During these times other lights may not be exhibited, except lights that cannot be mistaken for the lights specified in this section, lights that do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout. The lights prescribed in this section must, if carried, be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary. The lights specified in this section must comply with United States Coast Guard specifications.

(b) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*All-round light*—A light showing an unbroken light over an arc of the horizon of 360°.

*Docking light*—A flood or spotlight type of light permanently installed or permanently mounted on a motorboat that is used to illuminate a boat's forward course of travel.

*Flashing light*—A light flashing at regular intervals at a frequency of 120 flashes or more per minute.

*Masthead light*—A white light placed over the fore and aft centerline of the boat showing an unbroken light over an arc of the horizon of 225° and fixed as to show the light from right ahead to 22.5° abaft the beam on either side of the boat, except that on a boat of less than 39.4 feet (12 meters) in length, the masthead light must be placed as nearly as practicable to the fore and aft centerline of the boat.

*Restricted visibility*—A condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms or other similar causes.

*Sailboat*—A boat under sail provided that propelling machinery, if fitted, is not being used.

*Sidelights*—A green light on the starboard (right) side and a red light on the port (left) side, each showing an unbroken light over an arc of the horizon of 112.5° and fixed as to show the light from right ahead to 22.5° abaft the beam on its respective side. On a boat of less than 65.6 feet (20 meters) in length, the side lights may be combined in one lantern carried on the fore and aft centerline of the boat. On a boat of less than 39.4 feet (12 meters) in length, the sidelights when combined in one lantern must be placed as nearly as practicable to the fore and aft centerline of the boat.

*Special flashing light*—A yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180° nor more than 225° and fixed as to show the light from right ahead to abeam and no more than 22.5° abaft the beam on either side of the boat.

*Sternlight*—A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135° and fixed as to show the light 67.5° from right aft on each side of the boat.

*Underway*—A boat that is not at anchor, made fast to the shore or aground.

(c) *Visibility of lights.*—The lights prescribed in this section must have an intensity as specified by the United States Coast Guard so as to be visible at the following minimum ranges:

(1) In a boat of 164 feet (50 meters) or more in length: a masthead light, 6 miles; a sidelight, 3 miles; a sternlight, 3 miles; a towing light, 3 miles; a white, red, green or yellow all-round light, 3 miles; and a special flashing light, 2 miles.

(2) In a boat of 39.4 feet (12 meters) or more in length but less than 164 feet (50 meters) in length: a masthead light, 5 miles; except that when the length of the boat is less than 65.6 feet (20 meters), 3 miles; a sidelight, 2 miles; a sternlight, 2 miles; a towing light, 2 miles; a white, red, green or yellow all-round light, 2 miles; and a special flashing light, 2 miles.

(3) In a boat of less than 39.4 feet (12 meters) in length: a masthead light, 2 miles; a sidelight, 1 mile; a sternlight, 2 miles; a towing light, 2 miles; a white, red, green or yellow all-round light, 2 miles; and a special flashing light, 2 miles.

(4) In an inconspicuous, partly submerged boat or object being towed: a white all-round light, 3 miles.

(d) *Motorboats underway.*

(1) A motorboat underway must exhibit the following lights:

(i) A masthead light forward.

(ii) A second masthead light abaft of and higher than the forward one. A boat of less than 164 feet (50 meters) in length may exhibit this light.

(iii) Sidelights.

(iv) A sternlight.

(2) An air-cushion boat when operating in the nondisplacement mode must, in addition to the lights

prescribed in paragraph (1), exhibit an all-round flashing yellow light where it can best be seen.

(3) A motorboat of less than 39.4 feet (12 meters) in length may, instead of the lights prescribed in paragraph (1), exhibit an all-round white light and sidelights.

(e) *Sailboats underway and unpowered boats.*

(1) A sailboat underway must exhibit the following lights:

- (i) Sidelights.
- (ii) A sternlight.

(2) In a sailboat of less than 65.6 feet (20 meters) in length, the lights prescribed in paragraph (1) may be combined in one lantern carried at or near the top of the mast where it can best be seen.

(3) A sailboat underway may, in addition to the lights prescribed in paragraph (1), exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green. These lights may not be exhibited in conjunction with the combined lantern permitted by paragraph (2).

(4) A sailboat of less than 23 feet (7 meters) in length must, if practicable, exhibit the lights prescribed in paragraph (1) or (2). If these lights are not exhibited, the sailboat must have ready at hand an electric torch or lighted lantern showing a white light that must be exhibited in sufficient time to prevent collision.

(5) An unpowered boat may exhibit the lights prescribed in this subsection for sailboats. If these lights are not exhibited, the unpowered boat must have ready at hand an electric torch or lighted lantern showing a white light that must be exhibited in sufficient time to prevent collision.

(f) *Anchored boats and boats aground.*

(1) A boat at anchor must exhibit an all-round white light where it can best be seen:

- (i) In the fore part.
- (ii) At or near the stern and at a lower level than the light prescribed in subparagraph (i).

(2) A boat of less than 164 feet (50 meters) in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (1).

(3) A boat aground must exhibit the lights prescribed in paragraph (1) where they can best be seen.

(4) A boat of less than 65.6 feet (20 meters) in length, when at anchor in a special anchorage area designated by

the United States Coast Guard, is not required to exhibit the anchor lights and shapes required under this subsection.

(g) *Boats being towed.* When, for any sufficient cause, it is impracticable for a boat or object being towed to exhibit the lights prescribed in this section, all possible measures shall be taken to light the boat or object towed or at least to indicate the presence of the unlighted boat or object.

(h) *Docking lights.* It is unlawful for a boat operator to use docking lights while underway except when docking and the boat is traveling at slow, no wake speed and is within 100 feet of approaching a dock, a mooring buoy or the shoreline.

**Appendix A. (Reserved)**

**CHAPTER 109. SPECIALTY BOATS AND WATERSKIING ACTIVITIES**

**§ 109.2. Paddleboards and sailboards.**

(a) *Paddleboards.* For purposes of this subsection, a paddleboard is a boat with no freeboard propelled by a paddle, oar, pole or other device. It is unlawful for a person to operate or attempt to operate a paddleboard on waters of this Commonwealth without having a United States Coast Guard approved wearable personal flotation device on board for each person, unless otherwise required to be worn in accordance with § 97.1 (relating to personal flotation devices). This prohibition does not apply to persons operating or attempting to operate a paddleboard in designated swimming, surfing or bathing areas.

(b) *Sailboards.* For purposes of this subsection, a sailboard is a type of single or double hulled boat equipped with an articulating mast and designed to be operated by a person standing on the board and maneuvering through the trim of the hand-held sail and distribution of body weight on the board. It is unlawful for a person to operate or attempt to operate a sailboard on waters of this Commonwealth unless the person is wearing a United States Coast Guard approved wearable personal flotation device. Inflatable personal flotation devices may not be used to meet this requirement.

**CHAPTER 111. SPECIAL REGULATIONS COUNTIES**

**§ 111.49. Northumberland County.**

*Susquehanna River.* Boats are limited to slow, no wake speed from 250 feet downriver of the Shikellamy State Park boat launch on the south side of Packer's Island upriver a distance of 200 feet above the Route 147 bridge.

[Pa.B. Doc. No. 14-2620. Filed for public inspection December 19, 2014, 9:00 a.m.]

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[ 58 PA. CODE CH. 75 ]

### Fishing; Endangered Species

The Fish and Boat Commission (Commission) proposes to amend Chapter 75 (relating to endangered species). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's list of threatened species.

#### A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

#### B. Contact Person

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. Statutory Authority

The proposed amendments to § 75.2 (relating to threatened species) are published under the statutory authority of section 2305 of the code (relating to threatened and endangered species).

#### D. Purpose and Background

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

#### E. Summary of Proposal

(1) Bluebreast Darter (*Etheostoma camurum*): The Bluebreast Darter is a small species that inhabits rivers and large streams, preferring fast, clean riffles and runs having large gravel, rubble and boulder substrate. It occurs in the Ohio River basin from western New York to eastern Illinois, and south to the Tennessee River in Tennessee and Alabama. It is locally common but absent from large portions of its range. In this Commonwealth, it occurs throughout French Creek, the middle and lower sections of the Allegheny River and the Ohio River as well as additional tributaries to these waterways. It formerly occurred in the Shenango River as well but is now considered extirpated there.

The Bluebreast Darter has experienced a considerable range expansion since it was listed as threatened in 1999. At that time it was spottily distributed in French Creek and the middle Allegheny River. It is now known to occur throughout French Creek, from near the Erie County/New York border to its mouth in Venango County (88 river miles). It occurs in the Allegheny River from Warren to its mouth in Pittsburgh, including the lock-and-dam section (189 river miles), and has been documented in the Ohio River (40 river miles) as far downriver as the tailrace of Montgomery Lock and Dam, Beaver County. It also occurs in much of the following areas: Tionesta Creek and a tributary; Big Sandy Creek, Venango County; Redbank Creek, Clarion County; Mahoning Creek, Armstrong County; Kiskiminetas River, Armstrong and

Westmoreland Counties; and Bull Creek, Deer Creek and Pine Creek, Allegheny County. In addition, it has experienced a similar expansion in Ohio, where it has been collected as far downriver as the Cincinnati area and was delisted in 2012 (Zimmerman, 2014). It has also been collected in Oswayo Creek, Cattaraugus County, New York.

The status of this species was reviewed using the Commission's documentation and objective listing/delisting process. It exceeds criterion A.1 (Population Reduction) in that its population is significantly increasing. Since the Bluebreast Darter now occupies more than 200 river miles of waterway, it also significantly exceeds Criterion B.3 (Extent of Occupancy). In addition, it was evaluated with NatureServe's Conservation Status Assessments Rank Calculator (Criswell, 2014) and received a State Conservation Rank of S4S5, meaning it is apparently secure to secure in this Commonwealth with a fairly low to very low risk of extirpation due to its extensive range and/or many populations or occurrences. The Fishes Technical Committee of the Pennsylvania Biological Survey (PABS) reviewed this documentation and rank assignment and recommended that the Bluebreast Darter be delisted. Enough information is available to make the determination that it is secure in this Commonwealth at present and to justify its removal from the Commonwealth's list of threatened fishes. Therefore, the Commission proposes that the Bluebreast Darter be removed from the Commonwealth's list of threatened species.

(2) Gilt Darter (*Percina evides*): The Gilt Darter is a small species that inhabits clear rivers and large streams, where it prefers deeper riffles and runs with moderate to swift current over silt-free sand, gravel, cobble and rubble. It occurs in the Mississippi River basin from New York to Minnesota and south to northern Alabama and northern Arkansas. It also occurs in the Maumee River system of the Lake Erie drainage in Ohio and Indiana. In this Commonwealth, it occurs throughout French Creek, the middle and lower sections of the Allegheny River, and the Ohio River.

The Gilt Darter has experienced a considerable range expansion since it was listed as threatened in 1999. At that time it was spottily distributed in French Creek and the middle Allegheny River. It is now known to occur throughout French Creek, from Erie County to its mouth in Venango County (88 river miles). It occurs in the Allegheny River from Warren to its mouth in Pittsburgh, including the lock-and-dam section (189 river miles), and has been documented in the Ohio River as far downriver as the tailrace of Dashields Lock and Dam, Allegheny County.

It is now common in French Creek and abundant in sections of the Allegheny River. At least 7 benthic trawl events from the latter have resulted in the collection of more than 100 individuals, and 2 of those trawls included nearly 200 specimens.

The status of this species was reviewed using the Commission's documentation and objective listing/delisting process. It exceeds criterion A.1 (Population Reduction) in that its population is significantly increasing. Since the Gilt Darter now occupies more than 150 river miles of waterway, it also significantly exceeds Criterion B.3 (Extent of Occupancy). In addition, it was evaluated with NatureServe's Conservation Status

Assessments Rank Calculator (Criswell, 2014) and received a State Conservation Rank of S4, meaning it is apparently secure in this Commonwealth with a fairly low to very low risk of extirpation due to its extensive range and/or many populations or occurrences. The Fishes Technical Committee of PABS reviewed this documentation and rank assignment and recommended that the Gilt Darter be delisted. Enough information is available to make the determination that it is secure in this Commonwealth at present and to justify its removal from the Commonwealth's list of threatened fishes. Therefore, the Commission proposes that the Gilt Darter be removed from the Commonwealth's list of threatened species.

(3) Spotted Darter (*Etheostoma maculatum*): The Spotted Darter is a small species that inhabits large streams and rivers, where it prefers the faster, deeper portions of riffles possessing gravel and rubble substrates. It occurs in the Ohio River basin from western New York and Pennsylvania to northern Indiana and south to West Virginia and Kentucky. It is extremely localized and uncommon in much of its range. In this Commonwealth, it occurs in French Creek and the Allegheny River and Ohio River.

The Spotted Darter has experienced a considerable range expansion since it was listed as threatened in 1999. At that time it was spottily distributed in French Creek and the middle Allegheny River. It is now known to occur throughout French Creek, including its West Branch, from near the Erie County/New York border to its mouth in Venango County (88 river miles). It occurs in the Allegheny River from Warren to its mouth in Pittsburgh, including the lock-and-dam section (189 river miles), and has been documented in the Ohio River as far downriver as the tailrace of Montgomery Lock and Dam, Beaver County. It also occurs in the following areas: Oil Creek, Venango County; Kiskiminetas River, Armstrong and Westmoreland Counties; and Bull Creek, Deer Creek and Pine Creek, Allegheny County.

Benthic trawls in the Allegheny River included yields of as many as 89 and 202 individuals. It is well distributed and relatively common, although not necessarily abundant, through its Pennsylvania range. The Spotted Darter was recently considered for Federal protection under the Endangered Species Act but a review published in 2011 concluded that "threats to spotted darter are not of sufficient imminence, intensity, or magnitude that would cause substantial losses of population distribution or viability."

The status of this species was reviewed using the Commission's documentation and objective listing/delisting process. It exceeds criterion A.1 (Population Reduction) in that its population is significantly increasing. Since the Spotted Darter now occupies more than 200 river miles of waterway, it also significantly exceeds Criterion B.3 (Extent of Occupancy). In addition, it was evaluated with NatureServe's Conservation Status Assessments Rank Calculator (Criswell, 2014) and received a State Conservation Rank of S4, meaning it is apparently secure in this Commonwealth with a fairly low to very low risk of extirpation due to its extensive range and/or many populations or occurrences. The Fishes Technical Committee of PABS reviewed this documentation and rank assignment and recommended that the Spotted Darter be delisted. Enough information is available to make the determination that it is secure in this Commonwealth at present and to justify its removal from the Commonwealth's list of threatened fishes. Therefore, the Commission proposes that the Spotted Darter be removed from the the Commonwealth's list of threatened species.

(4) Tippecanoe Darter (*Etheostoma tippecanoe*): The Tippecanoe Darter is a small species that inhabits rivers and large streams, where it requires clean gravel or sand/gravel substrates. It occurs in the Ohio River basin from western Pennsylvania to Indiana, and south to the Cumberland River drainage in Tennessee. It is extremely localized but locally common. In this Commonwealth, it occurs throughout French Creek, the middle and lower sections of the Allegheny River, the Ohio River and additional tributaries to these waterways.

The Tippecanoe Darter has experienced a considerable range expansion since it was listed as threatened in 1999. At that time it was spottily distributed in French Creek and the middle Allegheny River. It is now known to occur throughout French Creek, from near the Erie County/New York border to its mouth in Venango County (88 river miles). It occurs in the Allegheny River from Warren to its mouth in Pittsburgh, including the lock-and-dam section (189 river miles), and has been documented in the Ohio River as far downriver as the tailrace of Montgomery Lock and Dam, Beaver County. It also occurs in the following areas: Oil Creek, Venango County; Kiskiminetas River, Armstrong and Westmoreland Counties; and Bull Creek, Deer Creek and Pine Creek, Allegheny County.

Hundreds of Tippecanoe Darters were easily captured in a riffle below Lock and Dam 3 on the Allegheny River (Koryak et al., 2009), and at least 17 stations have produced 20 or more individuals. It is locally common at many locations within its Pennsylvania range.

The status of this species was reviewed using the Commission's documentation and objective listing/delisting process. It exceeds criterion A1 (Population Reduction) in that its population is significantly increasing. Since the Tippecanoe Darter now occupies more than 150 river miles of waterway, it also significantly exceeds Criterion B3 (Extent of Occupancy). In addition, it was evaluated with NatureServe's Conservation Status Assessments Rank Calculator (Criswell, 2014) and received a State Conservation Rank of S4, meaning it is apparently secure in this Commonwealth with a fairly low risk of extirpation due to its extensive range and/or many populations or occurrences. The Fishes Technical Committee of PABS reviewed this documentation and rank assignment and recommended that the Tippecanoe Darter be delisted. Enough information is available to make the determination that it is secure in this Commonwealth at present and to justify its removal from the Commonwealth's list of threatened fishes. Therefore, the Commission proposes that the Tippecanoe Darter be removed from the the Commonwealth's list of threatened species.

The Commission therefore proposes to amend § 75.2 to read as set forth in Annex A.

#### F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

#### G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or the general public.

#### H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within

30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,  
Executive Director

**Fiscal Note:** 48A-261. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

#### Subpart B. FISHING

#### CHAPTER 75. ENDANGERED SPECIES

#### § 75.2. Threatened species.

\* \* \* \* \*

(b) *Fish*. The following species are threatened:

- (1) Mountain brook lamprey, *Ichthyomyzon greeleyi*.
- (2) Bigmouth shiner, *Notropis dorsalis*.
- (3) Southern redbelly dace, *Phoxinus erythrogaster*.
- (4) Spotted sucker, *Minytrema melanops*.
- (5) Brindled madtom, *Noturus miurus*.

[ (6) Bluebreasted darter, *Etheostoma camurum*.

(7) Spotted darter, *Etheostoma maculatum*.

(8) Tippecanoe darter, *Etheostoma tippecanoe*.

(9) Gilt darter, *Percina evides*.

(10) ] (6) Chesapeake Logperch, *Percina bimaculata*.

\* \* \* \* \*

[Pa.B. Doc. No. 14-2621. Filed for public inspection December 19, 2014, 9:00 a.m.]

### [ 58 PA. CODE CH. 65 ]

#### Fishing; Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

##### A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

##### B. Contact Person

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

##### C. Statutory Authority

The proposed amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

##### D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendment is described in more detail under the summary of proposal.

##### E. Summary of Proposal

Lake Perez, a 72-acre impoundment owned by The Pennsylvania State University, is located in Barree Township, Huntingdon County, approximately 3 miles northeast from the Village of Neffs Mills. This lake was completely dewatered during late spring 2009 to complete dam and spillway repairs and modifications per Department of Environmental Protection dam safety standards. The earth-fill dam, constructed in 1959, impounds Shaver Creek at river mile 13.6 upstream from the mouth at the Juniata River. Prior to the drawdown in 2009, access to the shoreline was primarily provided at two discrete access points as well as from numerous walking trails surrounding the lake. Approximately 80% of this shoreline was considered fishable. Additionally, one boat ramp provided boat access for nonpowered and electric motor crafts. The lake offered angling opportunities for multiple warm and coolwater fish species and adult trout stocked by the Commission during spring, fall and winter offered seasonal angling opportunities for trout. Dam and spillway repairs were completed during early summer 2014, and the reservoir began refilling at that time.

The Commission plans to stock the lake and establish a high quality warmwater and coolwater fishery through fingerling plants of select species. Immediately upon refilling of the lake, the Commission proposes to open the lake to fishing under a miscellaneous special regulation that will allow for the harvest of trout under Commonwealth inland regulations but allow only catch and release fishing for all other fish species. The Commission believes that this approach will allow the development of a balanced warmwater and coolwater fish community to rapidly develop while offering acceptable levels of recreational angling opportunities. The Commission will monitor the fish populations as needed while they develop and make the necessary adjustments to the species being stocked and the regulations governing the fishery to continually provide high quality recreational angling opportunities at Lake Perez.

The Commission proposes to amend § 65.24 to read as set forth in Annex A.

##### F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

##### G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or the general public.

##### H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within

30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working

days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,  
*Executive Director*

**Fiscal Note:** 48A-260. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
		* * * * *
Elk	West Branch, Clarion River	The following additional restrictions apply to the “Catch and Release, Fly-Fishing Only” area located on a 1/2-mile stream section from the intersection of S. R. 219 and S. R. 4003, upstream to the Texas Gulf Sulphur Property: Wading prohibited. Fishing permitted from east shore only.
Huntingdon	Lake Perez	<b>All species except trout—Catch and release/no harvest; it is unlawful to take, kill or possess any fish except trout. All fish caught other than trout must be immediately returned unharmed.</b> <b>Trout—inland regulations apply. See § 61.1. This miscellaneous special regulation will remain in effect until June 16, 2018.</b>
Huntingdon	Raystown Lake (includes Raystown Branch from the Raystown Dam downstream to the confluence with the Juniata River).	Trout (all species)—no closed season. Daily limit: First Saturday after April 11 until Labor Day—5 trout per day; day after Labor Day to first Saturday after April 11 of the following year—3 trout per day. Size limits: Inland rules apply. Smelt may be taken from shore or by wading by means of dip nets not to exceed 20 inches in diameter or 20 inches square. The daily limit per person is the greater of 1 gallon of smelt by volume or 200 smelt by number.
		* * * * *

[Pa.B. Doc. No. 14-2622. Filed for public inspection December 19, 2014, 9:00 a.m.]



# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

[ 4 PA. CODE CH.9 ]

#### Reorganization of the Department of Human Services

The Executive Board approved a reorganization of the Department of Human Services effective December 4, 2014.

The organization chart at 44 Pa.B. 7880 (December 20, 2014) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 14-2623. Filed for public inspection December 19, 2014, 9:00 a.m.]

### PART II. EXECUTIVE BOARD

[ 4 PA. CODE CH. 9 ]

#### Reorganization of the Pennsylvania Municipal Retirement System

The Executive Board approved a reorganization of the Pennsylvania Municipal Retirement System effective December 4, 2014.

The organization chart at 44 Pa.B. 7880 (December 20, 2014) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 14-2625. Filed for public inspection December 19, 2014, 9:00 a.m.]

### PART II. EXECUTIVE BOARD

[ 4 PA.CODE CH. 9 ]

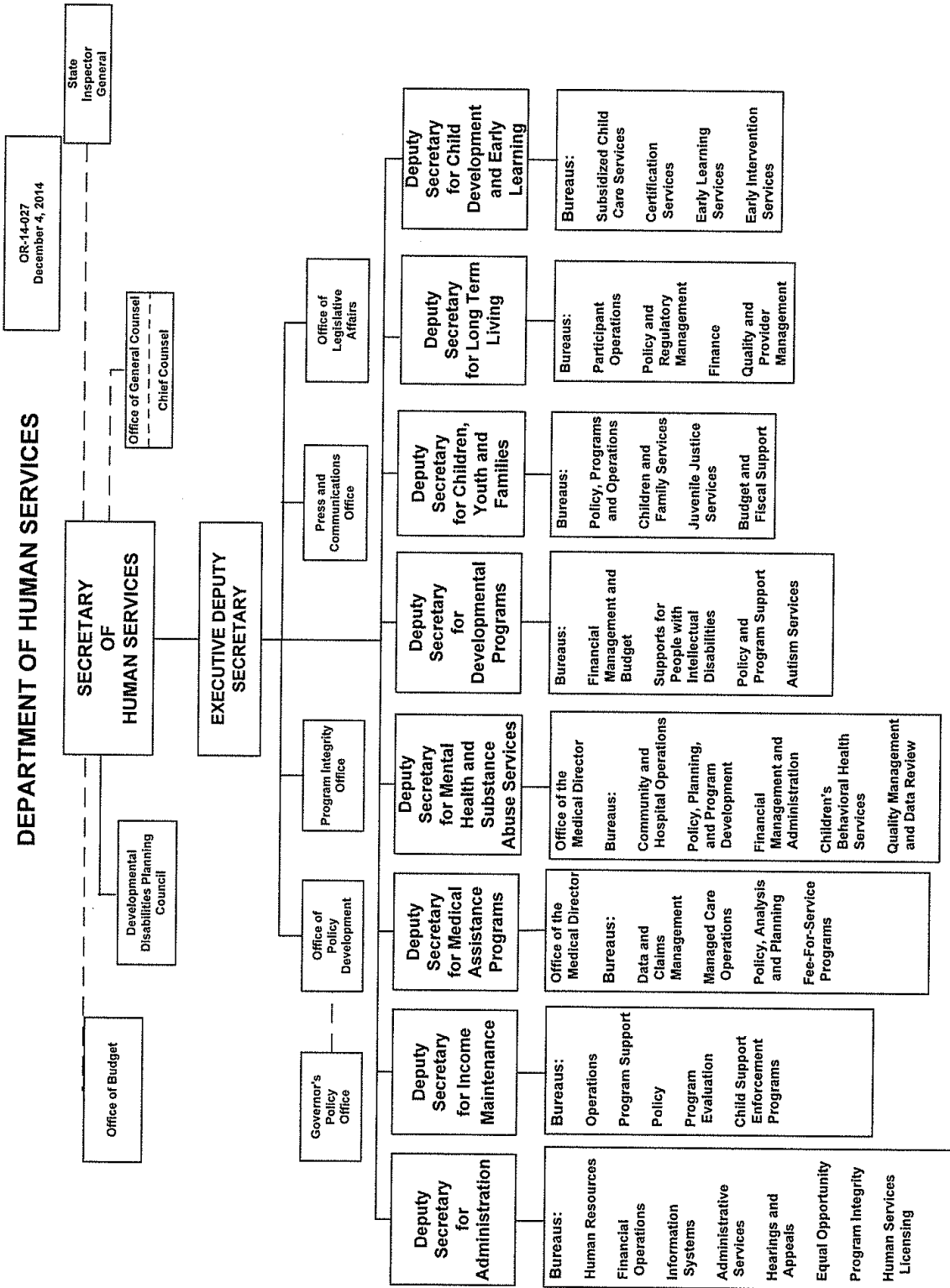
#### Reorganization of the Governor's Office of Administration

The Executive Board approved a reorganization of the Governor's Office of Administration effective December 4, 2014.

The organization chart at 44 Pa.B. 7880 (December 20, 2014) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

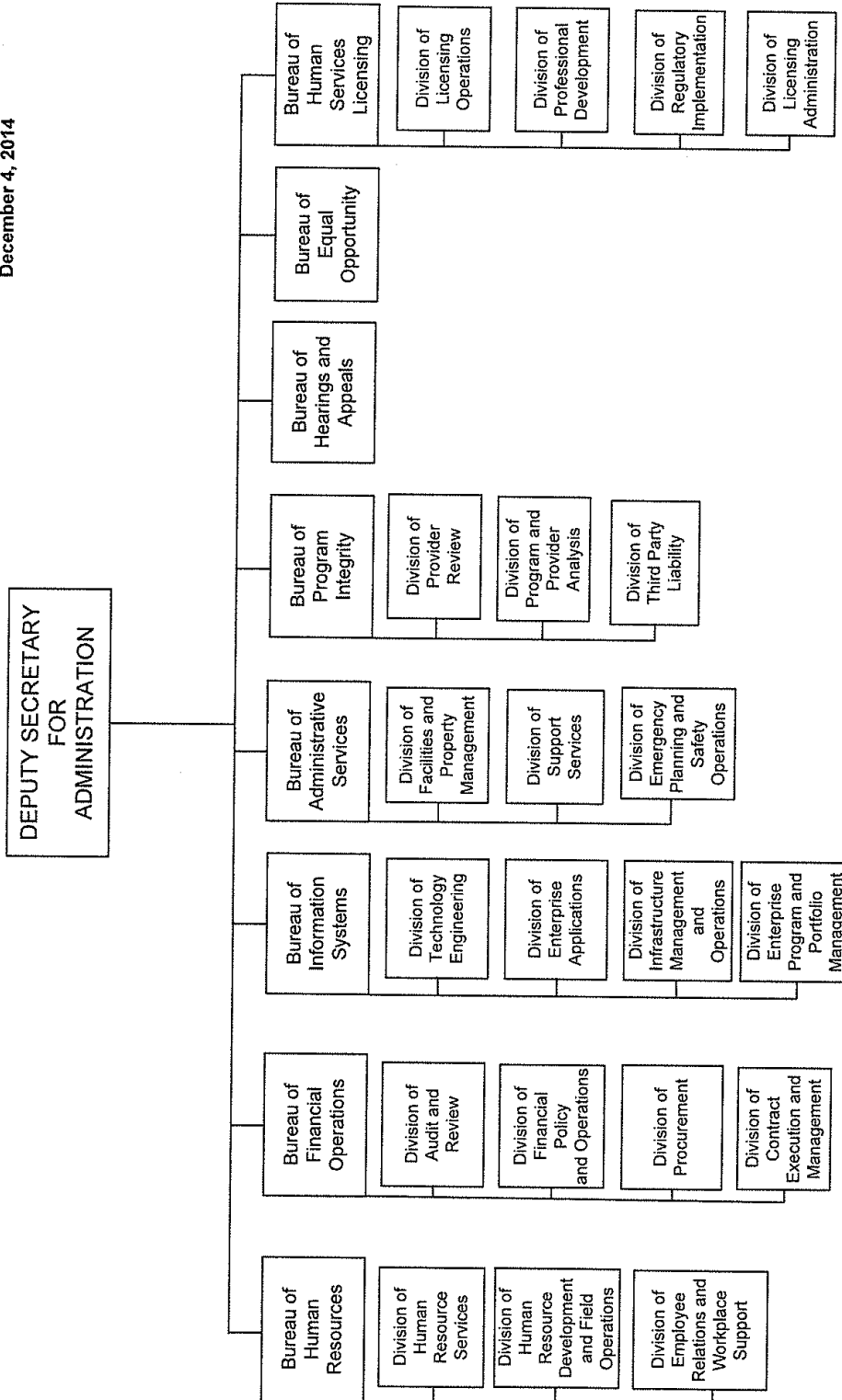
*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 14-2624. Filed for public inspection December 19, 2014, 9:00 a.m.]



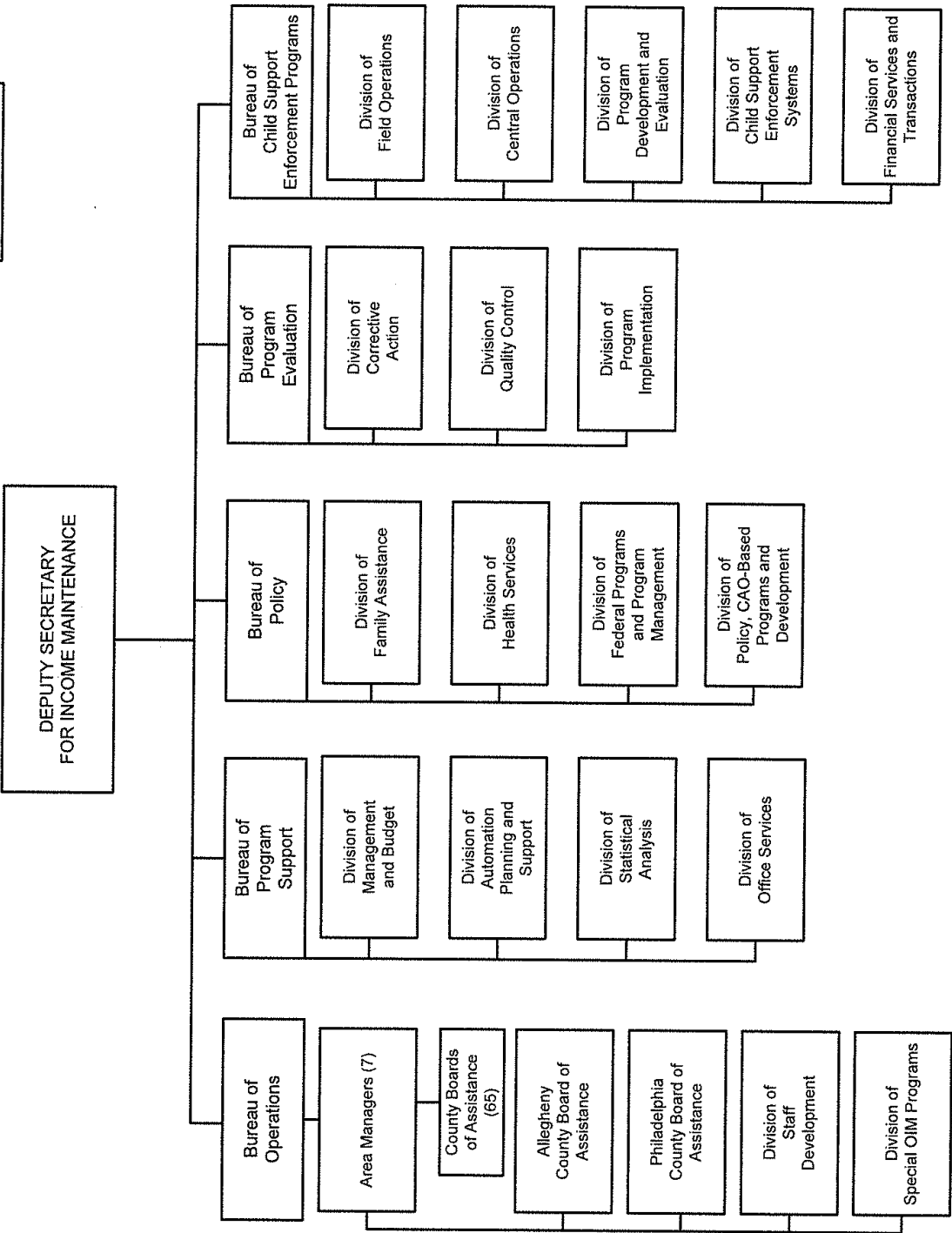
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DEPUTY SECRETARY FOR ADMINISTRATION

OR-14-027  
December 4, 2014



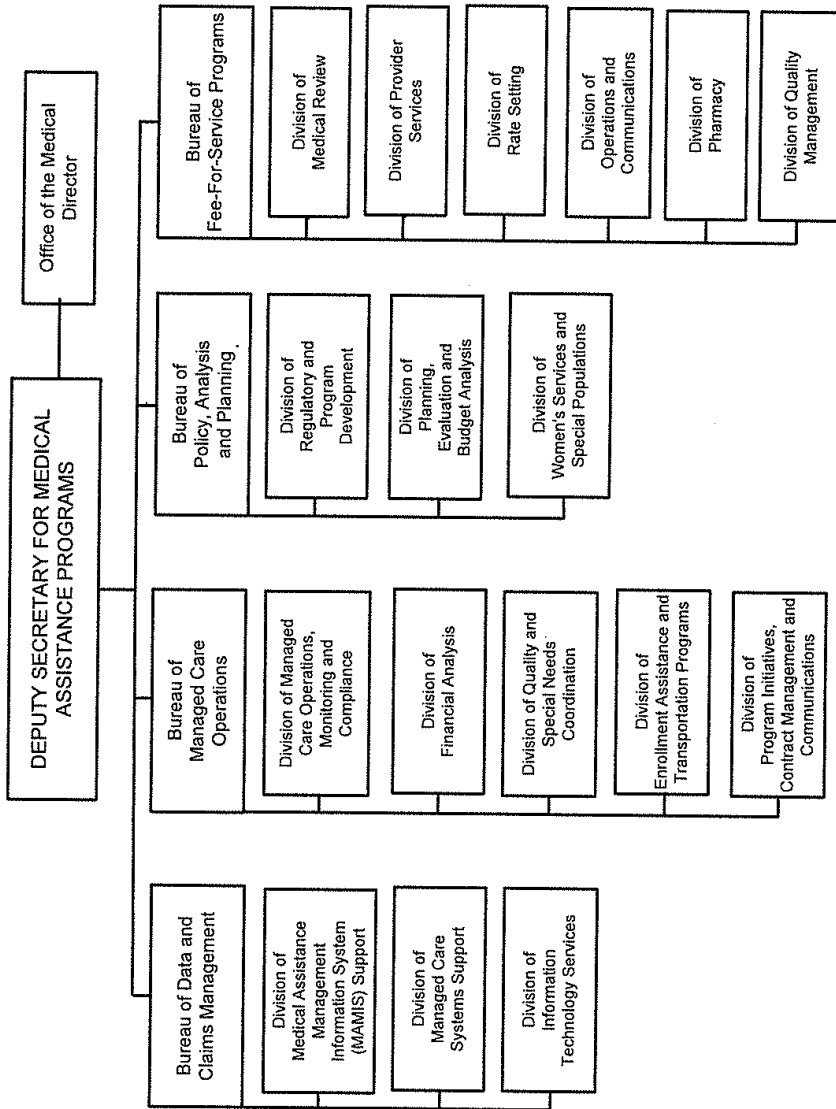
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DEPUTY SECRETARY FOR INCOME MAINTENANCE

OR-14-027  
December 4, 2014



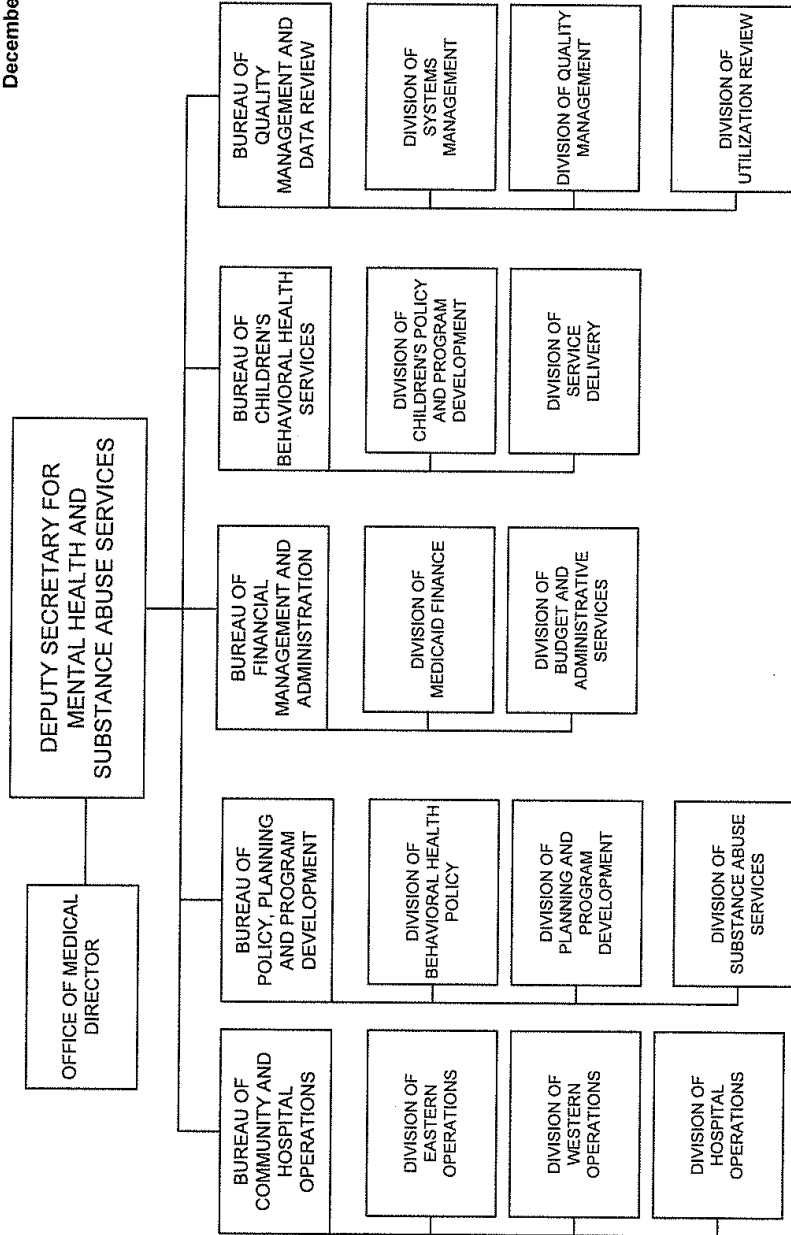
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December 4, 2014

DEPARTMENT OF HUMAN SERVICES  
DEPUTY SECRETARY FOR MEDICAL ASSISTANCE PROGRAMS



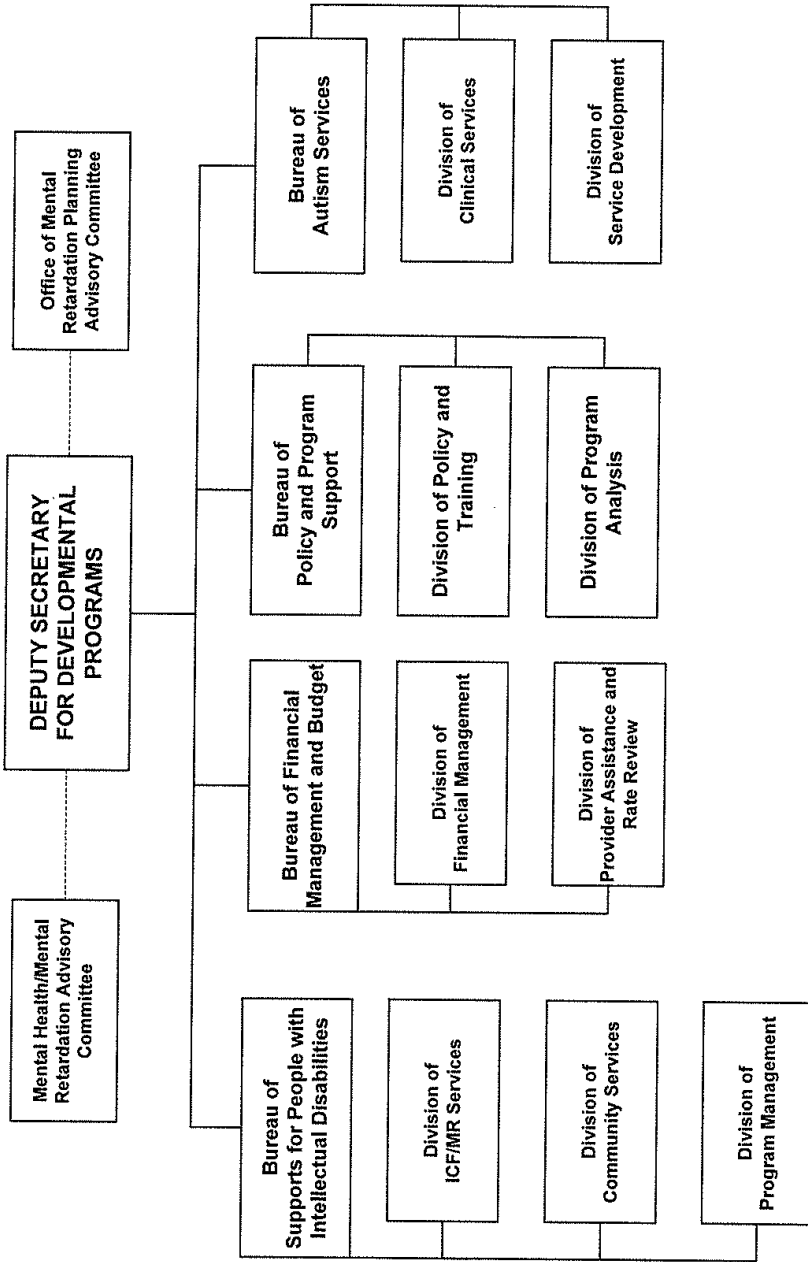
DEPARTMENT OF HUMAN SERVICES  
DEPUTY SECRETARY FOR MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

OR-14-027  
December 4, 2014



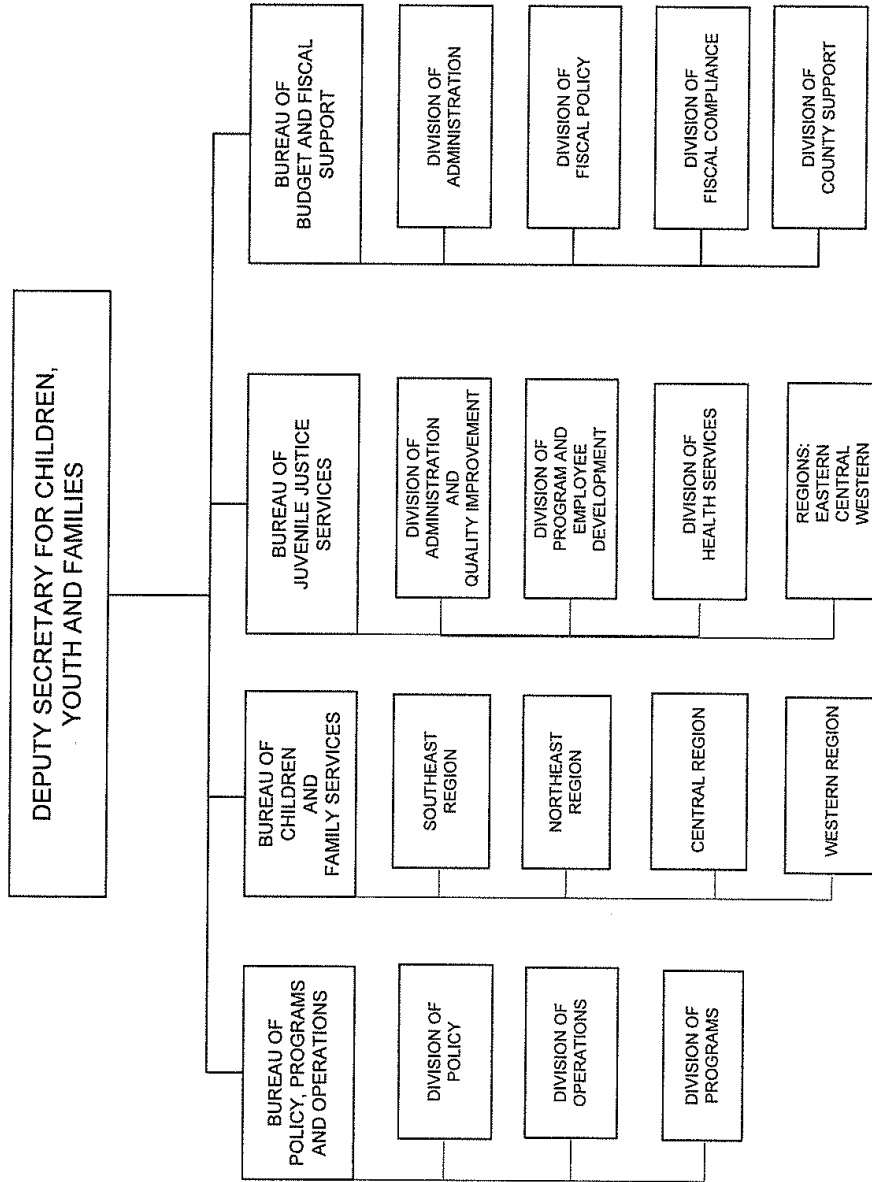
OR-14-027  
December 4, 2014

DEPARTMENT OF HUMAN SERVICES  
DEPUTY SECRETARY FOR DEVELOPMENTAL PROGRAMS



DEPARTMENT OF HUMAN SERVICES  
DEPUTY SECRETARY FOR CHILDREN, YOUTH AND FAMILIES

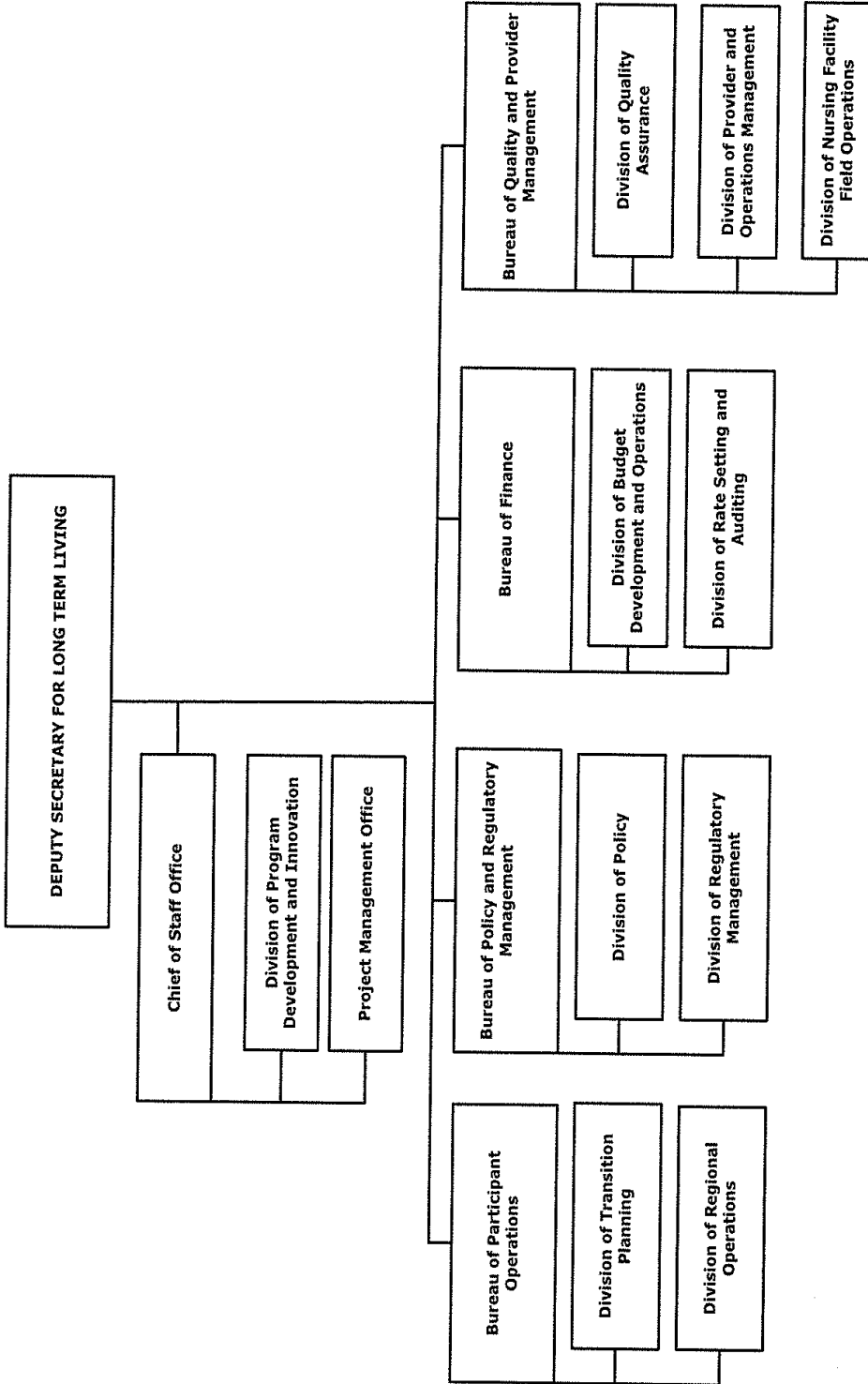
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December 4, 2014





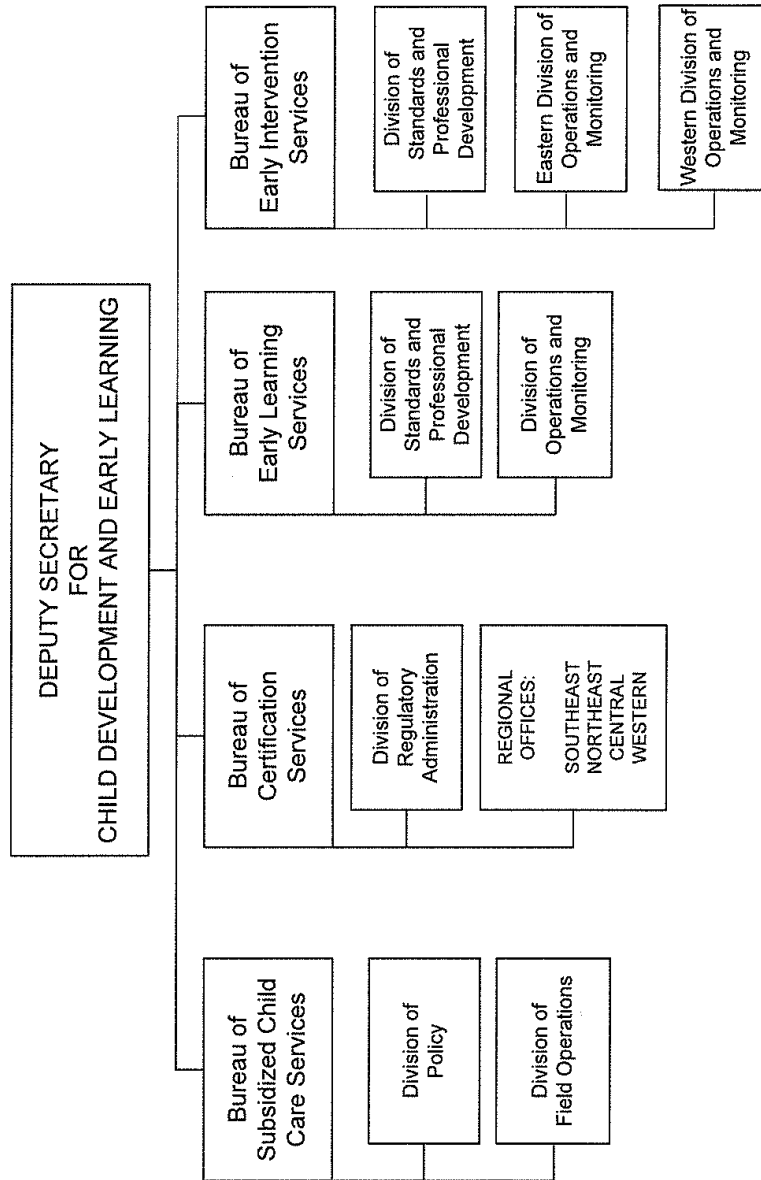
**DEPARTMENT OF HUMAN SERVICES  
DEPUTY SECRETARY FOR LONG TERM LIVING**

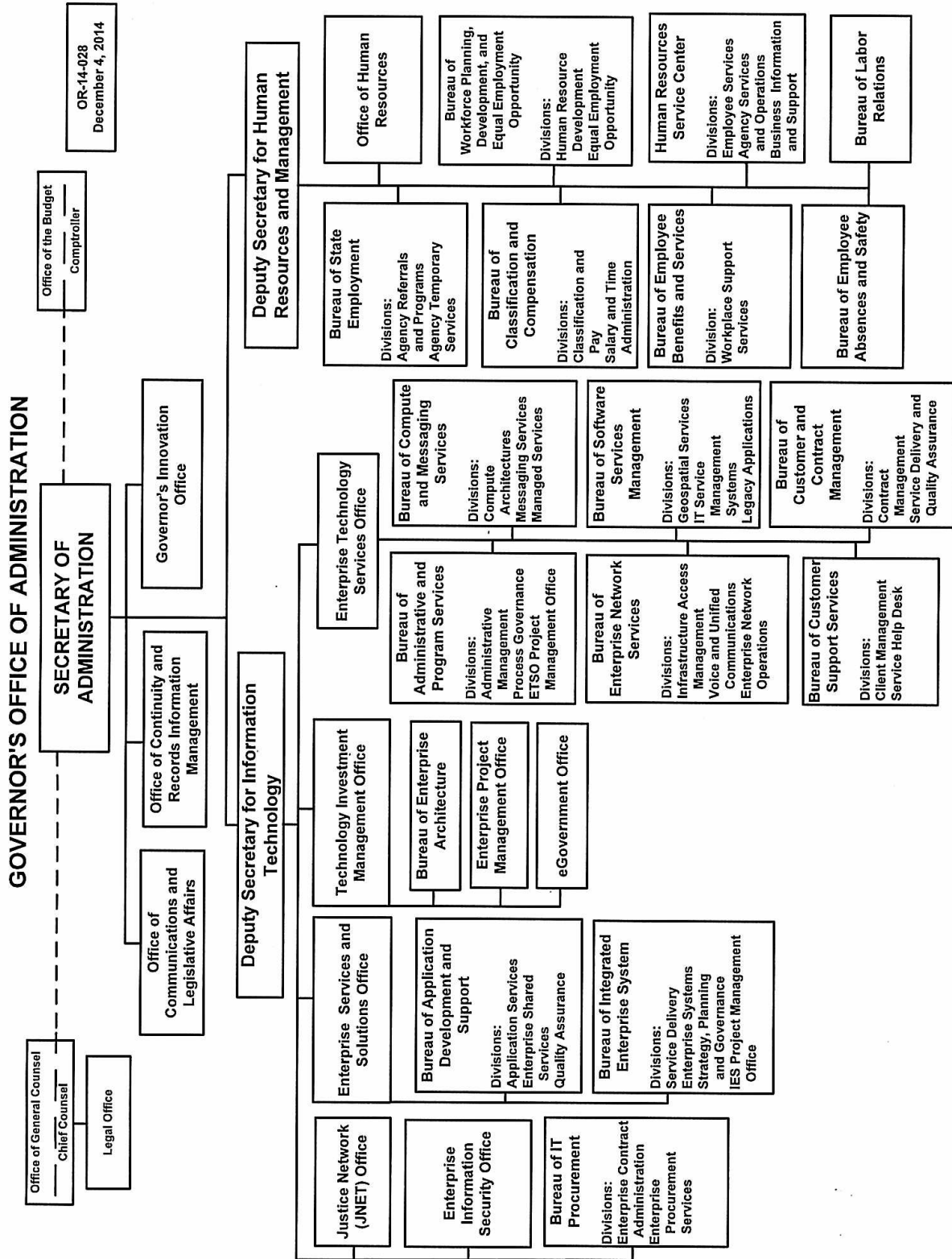
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December 4, 2014



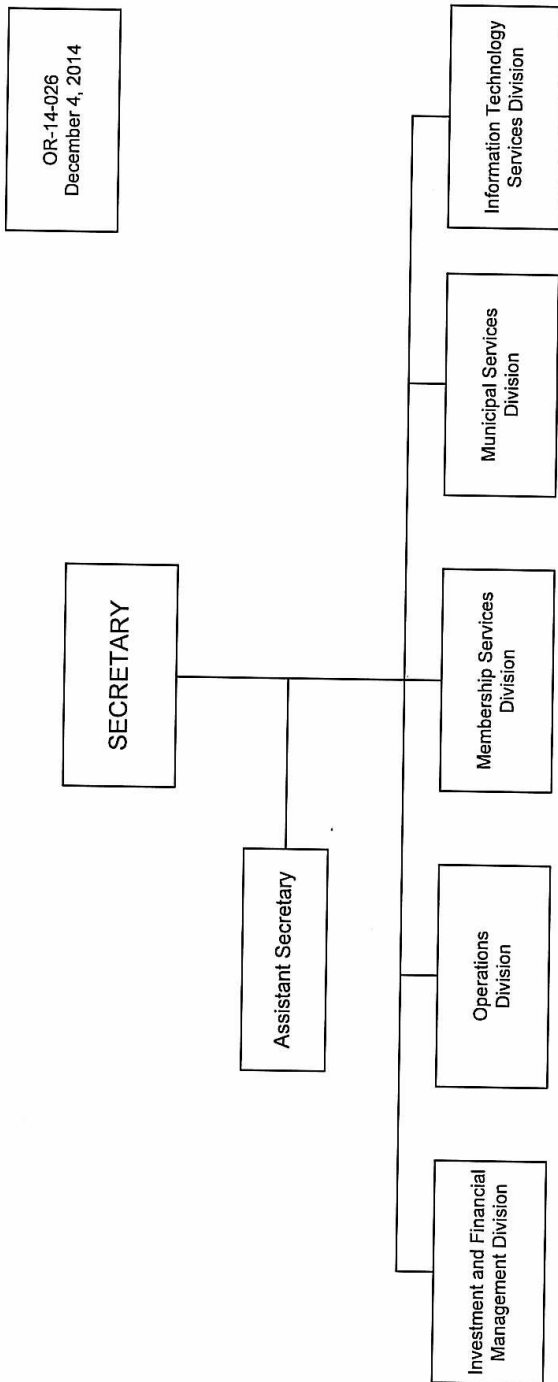
OR-14-027  
December 4, 2014

DEPARTMENT OF HUMAN SERVICES  
DEPUTY SECRETARY FOR CHILD DEVELOPMENT AND EARLY LEARNING





PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM



# NOTICES

## DEPARTMENT OF BANKING AND SECURITIES

### Actions on Applications

The Department of Banking and Securities (Department), under the authority contained in the Act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the Act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending December 9, 2014.

Under section 503.E of the Department of Banking and Securities Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking and Securities, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

### BANKING INSTITUTIONS

#### Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
12-5-2014	S&T Bancorp, Inc. Indiana Indiana County  Application for approval to acquire 100% of Integrity Bancshares, Inc., Camp Hill and thereby indirectly acquire 100% of Integrity Bank, Camp Hill.	Filed

#### Branch Applications

##### Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-8-2014	Farmers & Merchants Trust Company Chambersburg Franklin County	<i>To:</i> North Lincoln Highway Chambersburg Franklin County  <i>From:</i> 1100 Lincoln Way West Chambersburg Franklin County	Approved
12-8-2014	Susquehanna Bank Lititz Lancaster County	<i>To:</i> 4305 Marketplace Way Enola Cumberland County  <i>From:</i> 390 East Penn Drive Enola Cumberland County	Approved

### CREDIT UNIONS

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
12-9-2014	Diamond Credit Union Pottstown Montgomery County	5320 Allentown Pike Temple Berks County	Approved

The Department's web site at [www.dobs.state.pa.us](http://www.dobs.state.pa.us) includes public notices for more recently filed applications.

GLENN E. MOYER,  
*Secretary*

[Pa.B. Doc. No. 14-2626. Filed for public inspection December 19, 2014, 9:00 a.m.]

# DEPARTMENT OF EDUCATION

## Application by Cecil College to Operate a Location in this Commonwealth

### Notice of Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application for approval of a Certificate of Authority for Cecil College to offer a dual enrollment program at Oxford Area High School.

In accordance with 24 Pa.C.S. § 6503(e), the Department will act upon the application without a hearing, unless within 30 days after the publication of this notice in the *Pennsylvania Bulletin* a written request for public hearing is filed with the Department, along with a notice of intervention, a petition to intervene or protest in

accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protests) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protest and request for hearing shall be filed with the Division of Higher and Career Education, 333 Market Street, Harrisburg, PA 17126-0333 on or before the due date prescribed by this notice. Persons wishing to review the application should phone (717) 783-8228 or write to the previous address to schedule a time for an in-office review. Duplicate copies of the application are not available.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate should contact the Division of Higher and Career Education at (717) 783-8228 to discuss accommodations.

CAROLYN C. DUMARESQ, Ed.D.,  
*Acting Secretary*

[Pa.B. Doc. No. 14-2627. Filed for public inspection December 19, 2014, 9:00 a.m.]

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

### APPLICATIONS

#### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications concern, but are not limited to, discharges regarding industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFO). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Waste; Discharge into Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 Individual Permits and Individual Stormwater Construction Permits in Sections IV and VI, the Department, based upon preliminary reviews, has made tentative determinations of proposed effluent limitations and other terms and conditions for the permit applications. In accordance with 25 Pa. Code § 92a.32(d), the proposed discharge of stormwater associated with construction activities will be managed in accordance with the requirements of 25 Pa. Code Chapter 102. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the United States Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on NPDES applications are invited to submit statements to the contact office noted before the application within 30 days from the date of this public notice. Persons wishing to comment on WQM permit applications are invited to submit statements to the office noted before the application within 15 days from the date of

this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. A comment submittal should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for public hearings on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### I. NPDES Renewal Applications

*Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570-826-2511.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0061654 (Sewage)	Wallenpaupack Area School District Newfoundland Elementary School WWTP Routes 507 & 191 Newfoundland, PA 18445	Wayne County Dreher Township	Wallenpaupack Creek (1-C)	N

*Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0247154 (IW)	Possum Valley Municipal Authority PO Box 420 Bendersville, PA 17306	Adams County Menallen Township	UNT to Opossum Creek / 7-F	Y
PA0021245 (Sew)	Duncannon Borough Municipal Authority 428 North High Street Duncannon, PA 17020	Perry County Duncannon Borough	Susquehanna River / 7-A	Y
PA0086282 (IW)	Texas Eastern Transmission LP—Grantville Compressor Station 2601 Market Place Street Harrisburg, PA 17110-9363	Dauphin County East Hanover Township	UNT Bow Creek / 7-D	Y

*Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0043826 (IW)	United Erie Manufacturing 1432 Chestnut Street Erie, PA 16502-1705	Erie County Erie City	City of Erie storm sewers tributary to Presque Isle Bay (15)	Y

### II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Applications

*Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Telephone: 412.442.4000.*

**PA0042234**, Sewage, **Kittanning Borough Municipal Authority**, 300 South McKean Street, Kittanning, PA 16201. Facility Name: Kittanning Borough STP. This existing facility is located in Kittanning Borough, **Armstrong County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), Allegheny River, is located in State Water Plan Watershed 17-E and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.2 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		Instant. Maximum
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Weekly Average	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	Report	XXX	XXX	XXX
Total Residual Chlorine (Interim—From Permit Effective Date through 36th Month of Permit)	XXX	XXX	XXX	1.0	XXX	3.3
Total Residual Chlorine (Final—From 37th Month of Permit through Permit Expiration Date)	XXX	XXX	XXX	0.5	XXX	1.6
CBOD <sub>5</sub>	250	375 Wkly Avg	XXX	25	37.5	50
BOD <sub>5</sub> Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	300	450 Wkly Avg	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
Total Nitrogen	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Ammonia-Nitrogen	Report	XXX	XXX	Report	XXX	Report
Total Phosphorus	XXX	XXX	XXX	XXX	Report Daily Max	XXX

In addition, the permit contains the following requirements

Outfalls 020 and 021, which discharge to the receiving waters known as Allegheny River, serve as stormwater discharges from areas in and around the treatment plant. These stormwater discharges shall meet the conditions in the NPDES permit, Part C-Requirements Applicable to Stormwater Outfalls.

Part C of the NPDES permit contains a Total Residual Chlorine (TRC) Schedule of Compliance with specific milestones to achieve compliance with the above Final Best Available Technology (BAT) effluent limits for TRC.

The EPA Waiver is not in effect.

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*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5970*

**PA0051985 A-2**, Sewage, SIC Code 4952, **Horsham Water & Sewer Authority**, 617 Horsham Road, Horsham, PA 19044. Facility Name: Park Creek STP. This existing facility is located in Horsham Township, **Montgomery County**.

Description of Existing Activity: The application is for a major permit amendment to modify limits for Total Copper that become effective January 1, 2015, based on a Water Effect Ratio (WER) of 2.8. The WER is a site-specific criterion based on site conditions. For a hardness of 250 mg/l, the dissolved chronic aquatic life criterion is increased from 0.019 milligrams/liter to 0.055 mg/l. The dissolved acute aquatic life criterion is increased from 0.032 mg/l to 0.089 mg/l. The average monthly limit, expressed as total recoverable copper, is increased from 0.025 mg/l to 0.068 mg/l and the daily maximum limit is increased from 0.038 mg/l to 0.107 mg/l.

The receiving stream(s), Park Creek, is located in State Water Plan watershed 2-F and is classified for Warm Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 2.25 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		Instant. Maximum
	Average Monthly	Weekly Average	Instant. Minimum	Average Monthly	Weekly Average	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
CBOD <sub>5</sub> Raw Sewage Influent	XXX	XXX	XXX	Report	XXX	XXX
May 1 - Oct 31	187	281	XXX	10	15	20
Nov 1 - Apr 30	375	563	XXX	20	30	40



<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instant. Maximum</i>
BOD <sub>5</sub>						
Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	XXX	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	563	844	XXX	30	45	60
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	1,000
				Geo Mean		
Nitrate-Nitrite as N						
Jul 1 - Oct 31	167.0	XXX	XXX	8.9	XXX	17.8
Nov 1 - Jun 30	Report	XXX	XXX	Report	XXX	Report
Total Nitrogen	Report	XXX	XXX	Report	XXX	Report
Ammonia-Nitrogen						
May 1 - Oct 31	39.4	XXX	XXX	2.1	XXX	4.2
Nov 1 - Apr 30	75.0	XXX	XXX	4.0	XXX	8.0
Total Phosphorus						
Apr 1 - Oct 31	11.1	XXX	XXX	0.6	XXX	1.2
Nov 1 - Mar 31	22.2	XXX	XXX	1.2	XXX	2.4
Total Copper	1.20	1.87	XXX	0.064	0.100	XXX
		Daily Max			Daily Max	
Total Lead	Report	Report	XXX	Report	Report	XXX
		Daily Max			Daily Max	
Total Hardness	XXX	XXX	XXX	Report	Report	XXX
					Daily Max	

The proposed effluent limits for Outfall 002 are based on a design flow of an average storm event.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>		<i>Minimum</i>	<i>Annual Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	XXX	Report	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	Report	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	Report	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	Report	Report	XXX
Oil and Grease	XXX	XXX	XXX	Report	Report	XXX
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	Report	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	Report	XXX
Total Phosphorus	XXX	XXX	XXX	Report	Report	XXX
Dissolved Iron	XXX	XXX	XXX	Report	Report	XXX

In addition, the permit contains the following major special conditions:

- No storm water to sanitary sewers
- Remedial measures if public nuisance
- Small stream discharge
- TMDL data submission
- Whole effluent toxicity testing with renewal
- Instantaneous maximum limitations
- Fecal coliform reporting
- Necessary property rights
- Proper sludge disposal
- Notification of designation of responsible operator
- Operations and maintenance plan
- Storm water requirements

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is not in effect.

**PA0011070**, Industrial Waste, SIC Code 2521, **Knoll Inc.**, 1235 Water Street, East Greenville, PA 18041-2202. Facility Name: Knoll East Greenville Facility. This existing facility is located in Upper Hanover Township, **Montgomery County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated process water (outfall 101), treated sewage (outfall 201), noncontact cooling water (outfalls 301, and 103), and stormwater (outfalls 002, and 003) from a furniture manufacturing facility known as Knoll East Greenville Facility.

The receiving stream(s), Perkiomen Creek, is located in State Water Plan watershed 3-E and is classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0715 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instant. Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Temperature (°F)	XXX	XXX	XXX	XXX	XXX	110
Total Suspended Solids	18	36	XXX	30	60	75
Total Dissolved Solids	XXX	XXX	XXX	1,000	2,000	2500
Total Phosphorus	0.3	XXX	XXX	0.5	XXX	1.2

The proposed effluent limits for MP 101 are based on a design flow of 0.0004 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instant. Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (GPD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Cadmium	XXX	XXX	XXX	Report	Report	XXX
Total Copper	XXX	XXX	XXX	Report	Report	XXX
Total Zinc	XXX	XXX	XXX	Report	Report	XXX

The proposed effluent limits for MP 201 are based on a design flow of 0.040 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instant. Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (GPD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.3
CBOD <sub>5</sub>	8.0	13.0	XXX	25	40	50
Total Suspended Solids	10.0	15.0	XXX	30	45	60
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	1,000
Geo Mean						
Ammonia-Nitrogen						
May 1 - Oct 31	3.3	XXX	XXX	10.0	XXX	20.0
Nov 1 - Apr 30	6.7	XXX	XXX	20.0	XXX	40.0

The proposed effluent limits for MP 301 are based on a design flow of 0.0311 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instant. Minimum	Average Monthly	Daily Maximum	Instant. Maximum
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.3
Temperature (°F)	XXX	XXX	XXX	XXX	XXX	110

The proposed effluent limits for MP 103 (during an emergency only) are based on a design flow of 0.0215 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instant. Minimum	Average Monthly	Daily Maximum	Instant. Maximum
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.3
Temperature (°F)	XXX	XXX	XXX	XXX	XXX	110

The proposed effluent limits for Outfall 002 and 003 are based on a stormwater event.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Instant. Minimum	Average Monthly	Daily Maximum	Instant. Maximum
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Dissolved Iron	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

- Obtain Necessary Property Rights
- Proper Sludge disposal
- BAT/BCT Reopener
- Chlorine Minimization
- Chemical Additive Requirements
- Stormwater Management

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

*Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.*

**PA0031992**, Sewage, SIC Code 8412, **PA DCNR State Parks Bureau**, 15795 Greenwood Road, Huntingdon, PA 16652-5831. Facility Name: Greenwood Furnace State Park. This existing facility is located in Jackson Township, **Huntingdon County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream, East Branch Standing Stone Creek, is located in State Water Plan watershed 11-B and is classified for High Quality Waters—Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.015 MGD.

Parameters	Mass (lb/day)		Minimum	Concentration (mg/l)		Instant. Maximum
	Average Monthly Report	Daily Maximum Report		Annual Average	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)						
May 1 - Sep 30	XXX	XXX	6.0	XXX	XXX	9.0
Oct 1 - Apr 30	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen						
May 1 - Sep 30	XXX	XXX	5.0	XXX	XXX	XXX
Oct 1 - Apr 30	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine						
May 1 - Sep 30	XXX	XXX	XXX	0.5 Avg Mo	1.6	XXX
Oct 1 - Apr 30	XXX	XXX	XXX	0.5 Avg Mo	1.6	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	25 Avg Mo	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30 Avg Mo	XXX	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

**PAS803501**, Storm Water, SIC Code 4581, **Susquehanna Area Region Airport Authority**, One Terminal Drive, Middletown, PA 17057. Facility Name: Harrisburg International Airport. This existing facility is located in Lower Swatara Township, **Dauphin County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of Storm Water associated with Industrial Activities.

The receiving stream(s), Susquehanna River and Unnamed Tributary to Susquehanna River, is located in State Water Plan watershed 7-C and is classified for Warm Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfalls 001—012:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX
Total Glycol	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Internal Monitoring Point 105:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Total Suspended Solids	XXX	XXX	XXX	75	XXX	187
Benzene	XXX	XXX	XXX	0.005	XXX	0.0125
1,2-cis-Dichloroethylene	XXX	XXX	XXX	0.07	XXX	0.175
Trichloroethylene	XXX	XXX	XXX	0.005	XXX	0.0125
Vinyl Chloride	XXX	XXX	XXX	0.002	XXX	0.005

In addition, the permit contains the following major special conditions:

- Monitoring of Outfalls 001—012 must be conducted during the winter season (December through March), while deicing operations are occurring, and so that a time span of three to four weeks separates monitoring events.
- Storm water discharges associated with aircraft deicing activities shall be controlled to prevent, or minimize to the maximum extent feasible, deicing materials from flowing or being carried by storm water runoff into waters of the Commonwealth
- Owners or operators of storm water discharges from airport runways and taxiways subject to deicing operations shall develop and implement a program of BMPs designed to minimize the runoff of deicing and anti-icing materials from airport runways and taxiways to the waters of the Commonwealth
  - There shall be no discharge of airfield pavement deicers containing urea. To comply with this limitation, any existing point source must certify annually that it does not use airfield deicing products that contain urea.
  - Requirements Applicable to Stormwater Outfalls
  - List of Copermittees:

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

**PAS603504**, Storm Water, SIC Code 5015, **Buck Auto Sales and Salvage Co.**, 915 Lancaster Pike, Quarryville, PA 17566. Facility Name: Buck Auto Sales and Salvage Co. This existing facility is located in Providence Township, **Lancaster County**.

Description of Existing Activity: The application is for a renewal of an expired NPDES permit for an existing discharge of Storm Water associated with Industrial Activities.

The receiving stream(s), Conowingo Creek, is located in State Water Plan watershed 7-K and is classified for High Quality Waters—Cold Water Fishes and, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

- Requirements Applicable to Stormwater Outfalls

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

**PA0246417**, Storm Water, SIC Code 5015, **State Line Salvage Inc.**, 2632 Robert Fulton Highway, Peach Bottom, PA 17563. Facility Name: State Line Salvage Facility. This existing facility is located in Fulton Township, **Lancaster County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of stormwater associated with industrial activities.

The receiving stream(s), Unnamed Tributary of Conowingo Creek, is located in State Water Plan watershed 7-K and is classified for High Quality Waters—Cold Water Fishes and, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfalls 001 and 002:

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

- Requirements Applicable to Stormwater Outfalls

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

**PA0246727**, Sewage, SIC Code 4952, **Dudley Carbon Coalmont Joint Municipal Authority**, PO Box 276, Dudley, PA 16634-0276. Facility Name: Dudley Carbon Coalmont STP. This existing facility is located in Carbon Township, **Huntingdon County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Shoup Run, is located in State Water Plan watershed 11-D and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.071 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Weekly Average	Instant. Maximum
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
CBOD <sub>5</sub>	15	24 Wkly Avg	XXX	25	40	50
BOD <sub>5</sub>						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	18	27 Wkly Avg	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
UV Intensity (mW/cm <sup>2</sup> )	XXX	XXX	Report	XXX	XXX	XXX
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Avg Qrtly Report	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Avg Qrtly Report	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Avg Qrtly Report	XXX	XXX
Total Aluminum	Report	XXX	XXX	Avg Qrtly Report	XXX	XXX
Total Iron	Report	XXX	XXX	Report	XXX	XXX
Total Manganese	Report	XXX	XXX	Report	XXX	XXX

In addition, the permit contains the following major special conditions:

- Restrictions on acceptance of hauled-in wastes at the treatment facility under certain conditions, unless otherwise approved by DEP in writing
- Solids management and reporting requirements

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is not in effect.

**PA0083003**, SIC Code 4941, **Dudley-Carbon-Coalmont Joint Municipal Authority**, PO Box 276, Dudley, PA 16634-0276. Facility Name: Dudley-Carbon-Coalmont JMA Water System. This existing facility is located in Carbon Township, **Huntingdon County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated water treatment filter backwash.

The receiving stream(s), Shoup Run, is located in State Water Plan watershed 11-D and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.024 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6	XXX	XXX	9
Total Suspended Solids	Report	Report	XXX	30	60	75
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Annl Avg	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Annl Avg	XXX	XXX
Total Aluminum	Report	Report	XXX	0.75	0.75	0.75
Total Iron	Report	Report	XXX	1.5	3.0	3.75
Total Manganese	Report	Report	XXX	1.0	2.0	2.5

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is not in effect.

**PA0261238**, SIC Code 6514, **Civils Michael D**, 369 Trouts Lane, Duncansville, PA 16635. Facility Name: Michael Civils Residence. This existing facility is located in Allegheny Township, **Blair County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), unnamed tributary of Sugar Run, is located in State Water Plan watershed 11-A and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6	XXX	XXX	9
Total Residual Chlorine	XXX	XXX	XXX	Report	XXX	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	10	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10	XXX	20
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	1,000
				Geo Mean		

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

**PA0261220**, SIC Code 6514, **Brenneman Jason**, 11973 Hartslog Valley Road, Huntingdon, PA 16652. Facility Name: Brenneman Jason Residence. This existing facility is located in Walker Township, **Huntingdon County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), Crooked Creek, is located in State Water Plan watershed 11-B and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		Instant. Maximum
	Average Monthly		Minimum	Average Monthly		
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6	XXX	XXX	9
Total Residual Chlorine	XXX	XXX	XXX	Report	XXX	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	10	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10	XXX	20
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	1,000
				Geo Mean		

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

### III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401, 484.250.5900*

**WQM Permit No. WQG02091421**, Sewage, **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976.

This proposed facility is located in Doylestown Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a pump station and sewer extension.

**WQM Permit No. 4601405**, Amendment, **Montgomery Township Municipal Sewer Authority**, 1001 Stump Road, Montgomeryville, PA 18936.

This proposed facility is located in Montgomery Township, **Montgomery County**.

Description of Action/Activity: Installation of septage screening unit with grit removal.

*Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Dr, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.*

**WQM Permit No. 0214408**, Sewage, **Pittsburgh Water and Sewer Authority**, 1200 Penn Ave, Pittsburgh, PA 15222.

This proposed facility is located in Pittsburgh City, **Allegheny County**.

Description of Proposed Action/Activity: construction of sewer extension.

*Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481*

**WQM Permit No. 2514404**, Sewage, **Summit Township Sewer Authority**, 8890 Old French Road, Erie, PA 16509-5459.

This proposed facility is located in Summit Township, **Erie County**.

Description of Proposed Action/Activity: Construction of sewage pump station, gravity sewers, and force main.

**WQM Permit No. WQG01251411**, Sewage, **John R. Stull**, 1689 Old State Road, Waterford, PA 16441.

This proposed facility is located in Waterford Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant to replace a malfunctioning on-lot system.

### VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI01 0914006	Island View Crossing II, L.P. 1 South State Street Newtown, PA 18940	Bucks	Bristol Borough	Delaware River WWF
PAI01 1514037	Planebrook Partners, LLC 2298 Horseshoe Pike Honey Brook, PA 19344	Chester	East Whiteland Township	Tributary of Valley Creek EV
PAI01 1514036	Renehan Building Group, Inc. 318 East King Street Malvern, PA 19355	Chester	East Goshen Township	Ridley Creek HQ—TSF—MF
PAI01 1514042	Jeffrey & Julie Milne 13 Barrington Lane Chester Springs, PA 19425	Chester	East Nantmeal Township	South Branch French Creek EV

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1514043	Swedesford Partners, L.P. 1875 Church Road Malvern, PA 19355	Chester	East Whiteland Township	Valley Creek EV

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

*Lehigh County Conservation District, Lehigh Ag Center, Suite 102, 4184 Dorney Park Rd, Allentown, PA 18104*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023914023	Gary Graham Pennsylvania Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Lehigh	Washington Township	UNT to Trout Creek (CWF, MF) EV Wetlands Trout Creek (CWF, MF) Quarry to Trout Creek (CWF, MF)
PAI023914027	Thomas G. JeBran City Line Place, LLC 2012 Industrial Drive Bethlehem, PA 18017	Lehigh	City of Bethlehem	Monocacy Creek (HQ-CWF, MF)
PAI023914024	Bill Bumber Liberty Property Trust 74 West Broad Street Bethlehem, PA 18018	Lehigh	Upper Macungie Township	Tributary to Schaeffer Run (HQ-CWF, MF)
PAI023909004(2)	Charles Burkert Cedar-Trexler Plaza 2, LLC & Cedar-Trexler Plaza 3, LLC 44 S. Bayles Avenue Port Washington, NY	Lehigh	Lower Macungie Township & Upper Macungie Township	Little Lehigh Creek (HQ-CWF, MF)

*Monroe County Conservation District, 8050 Running Valley Rd., Stroudsburg PA 18360-0917*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024509005R	Monroe-Pike Land, LLC 507 Seven Bridge Road East Stroudsburg, PA 18301	Monroe	Hamilton Township	McMichaels Creek (HQ-CWF, MF)

*Northampton County Conservation District, 14 Gracedale Avenue, Greystone Bldg, Nazareth, PA 18064-9211*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024814015	GLICA Bethlehem, LLC 800 East 96th Street, Suite 175 Indianapolis, IN 46240	Northampton	Hanover Township	Monocacy Creek (HQ-CWF, MF)

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, Nathan Crawford, Section Chief, 717.705.4802.*

<i>Permit #</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030714006	ABCD Corporation 3900 Industrial Park Drive Altoona, PA 16602 and Sheetz, Inc. 351 Sheetz Way Claysburg, PA 16625	Blair	Greenfield Township	Beaverdam Creek/CWF

*Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701*

*Lycoming County Conservation District: 542 County Farm Road Suite 202, Montoursville, PA 17754, (570) 433-3003*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044114004	Raymond Zomok DCNR—Div of Design 400 Market St FL 8 Harrisburg PA 17101	Lycoming	McHenry Township	Pine Creek EV



Southwest Region: Waterways & Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. (412) 442.4315

Permit No.	Applicant & Address	County	Municipality	Stream Name
PAI056514012	Mon Valley Sewage Authority 20 S. Washington Ave Donora, PA 15033	Westmoreland	City of Monessen	Monongahela River (WWF)

### STATE CONSERVATION COMMISSION

#### PROPOSED NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOS

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under 3 Pa.C.S. Chapter 5 and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC) or County Conservation Districts (CCD) working under a delegation agreement with the SCC have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at <http://www.nacdnet.org/about/districts/directory/pa.phtml> or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based. Comments should be sent to the SCC, Agriculture Building, Room 310, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons with a disability who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information should contact the SCC through the Pennsylvania AT&T Relay Service at (800) 654-5984.

#### APPLICATIONS

##### NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET

Agricultural Operation Name and Address	County	Total Acres	Animal Equivalent Units	Animal Type	Special Protection Waters (HQ or EV or NA)	Renewal/ New
Carsonville Farm, LP 2716 Powells Valley Rd, Halifax, PA 17032	Dauphin	0	571.98	Pullet / Swine	NA	Renewal
Sunrise Farms Kenneth Beers 1236 Newport Road Duncannon, PA 17020	Perry	432.2	186.6	Poultry / Beef	None	Renewal
Phillip Reisinger 684 Green Valley Rd. Landisburg, PA 17040	Perry	1,284.9	378	Poultry	NA	New
Hoffman Family Farm, LLC 243 Healy Road Shinglehouse, PA 16748	Potter	1,245	1,726.27	Dairy	Eleven Mile Creek, HQ Big Hollow, HQ Deering Hollow, HQ Dwight Hollow, HQ	

#### PUBLIC WATER SUPPLY (PWS) PERMITS

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for PWS permits to construct or substantially modify public water systems.

Persons wishing to comment on permit applications are invited to submit statements to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding an application. A comment should include the

name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**SAFE DRINKING WATER**

**Applications Received Under the Pennsylvania Safe Drinking Water Act**

*Southeast Region: Safe Drinking Water Program Manager, 2 East Main Street, Norristown, PA 19401*

**Permit No. WA-149E** Public Water Supply

Applicant **Pennsylvania American Water**

City Montgomery

Borough Royersford

Responsible Official Pennsylvania American Water  
4 Wellington Boulevard  
Suite-2  
Wyomissing, PA 19610

Type of Facility PWS

Consulting Engineer Gannett Fleming, Inc.  
P.O. Box 67100  
Harrisburg, PA 17106-7100

Application Received Date October 3, 2014

Description of Action Renewal of water allocation permit numbers WA-149C and WA-14D for the right to withdraw up to a maximum of 5 MGD from Schuylkill River and the right to purchase 1.0 MGD from Phoenixville Municipal Waterworks, respectively.

*Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110*

**Permit No. 6714506**, Public Water Supply.

Applicant **Franklintown Borough Municipal Authority**

Municipality Franklintown Borough

County **York**

Responsible Official Richard H. Blouch,  
Manager/Operator  
PO Box 88  
116 South Baltimore Street  
Franklintown, PA 17323-0088

Type of Facility Public Water Supply

Consulting Engineer Craig J. Zack, P.E.  
KPI Technology  
143 Carlisle Street  
Gettysburg, PA 17325

Application Received: 10/24/2014

Description of Action Installation of a temporary pumpstaion and chlorine contact tank to allow for the inspection of the existing finished water storage tank.

**Permit No. 3614518**, Public Water Supply.

Applicant **Warwick Township Municipal Authority**

Municipality Warwick Township

County **Lancaster**

Responsible Official Daniel Zimmerman, Authority  
Administrator  
315 Clary Road  
Litiz, PA 17543

Type of Facility Public Water Supply

Consulting Engineer Steven E. Riley, P.E.  
Entech Engineering, Inc  
PO Box 32  
Reading, PA 19603

Application Received: 11/7/2014

Description of Action New Well No. 2 for the Rothsville System of Warwick Township Municipal Authority.

*Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448*

**Application No. 4114505—Construction** Public Water Supply.

Applicant **Muncy Borough Municipal Authority**

[Township or Borough] Muncy Creek Township

County **Lycoming**

Responsible Official Edward Breon, Authority  
Chairman  
Muncy Borough Municipal Authority  
14 North Washington Street  
Muncy, PA 17756

Type of Facility Public Water Supply

Consulting Engineer Entech Engineering, Inc.  
Mary Beth Peters, P.E.  
685 S. Mountain Blvd, Suite A  
Mountain Top, PA 18707

Application Received December 4, 2014

Description of Action 200,000 gallon elevated water tank and booster pump station located along Industrial Parkway at the Kellogg's facility.

*Northwest Region: Safe Drinking Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481*

**Permit No. 2514505**, Public Water Supply

Applicant **Summit Township Water Authority**

Township or Borough Waterford Township

County **Erie**

Responsible Official John Troutman

Type of Facility Public Water Supply

Consulting Engineer August E. Maas, P.E.  
Hill Engineering, Inc.  
8 Gibson Street  
North East, PA 16428

Application Received November 17, 2014  
Date

Description of Action Replace filter media and install  
chemical feed system.

**MINOR AMENDMENT**

**Applications Received Under the Pennsylvania Safe  
Drinking Water Act**

*Southwest Region: Water Supply Management Program  
Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-  
4745*

**Application No. 2614513MA, Minor Amendment.**

Applicant **Municipal Authority of  
Westmoreland County**  
124 Park & Pool Road  
New Stanton, PA 15672

[Township or Borough] Mount Pleasant Township

Responsible Official M. Curtis Fontaine  
Manager of Operations,  
Engineering  
Municipal Authority of  
Westmoreland County  
124 Park & Pool Road  
New Stanton, PA 15672

Type of Facility Water system

Consulting Engineer

Application Received December 9, 2014  
Date

Description of Action Installation of approximately  
1,000 feet of 12-inch diameter  
waterline along Kecksburg Road.

**Application No. 2614514MA, Minor Amendment.**

Applicant **Municipal Authority of  
Westmoreland County**  
124 Park & Pool Road  
New Stanton, PA 15672

[Township or Borough] Rostraver Township

Responsible Official M. Curtis Fontaine  
Manager of Operations,  
Engineering  
Municipal Authority of  
Westmoreland County  
124 Park & Pool Road  
New Stanton, PA 15672

Type of Facility Water system

Consulting Engineer

Application Received December 9, 2014  
Date

Description of Action Installation of approximately  
7,600 feet of 8-inch diameter  
waterline along Indian Hill  
Road.

**Application No. 2614515MA, Minor Amendment.**

Applicant **Municipal Authority of  
Westmoreland County**  
124 Park & Pool Road  
New Stanton, PA 15672

[Township or Borough] Mount Pleasant Township

Responsible Official M. Curtis Fontaine  
Manager of Operations,  
Engineering  
Municipal Authority of  
Westmoreland County  
124 Park & Pool Road  
New Stanton, PA 15672

Type of Facility Water system

Consulting Engineer

Application Received December 9, 2014  
Date

Description of Action Installation of approximately  
3,000 feet of 8-inch diameter  
waterline along Hills Church  
Road.

**Application No. 2614516MA, Minor Amendment.**

Applicant **Municipal Authority of  
Westmoreland County**  
124 Park & Pool Road  
New Stanton, PA 15672

[Township or Borough] Mount Pleasant Township

Responsible Official M. Curtis Fontaine  
Manager of Operations,  
Engineering  
Municipal Authority of  
Westmoreland County  
124 Park & Pool Road  
New Stanton, PA 15672

Type of Facility Water system

Consulting Engineer

Application Received December 9, 2014  
Date

Description of Action Installation of approximately  
3,000 feet of 8-inch diameter  
waterline along Reservoir Road.

**Application No. 2614517MA, Minor Amendment.**

Applicant **Municipal Authority of  
Westmoreland County**  
124 Park & Pool Road  
New Stanton, PA 15672

[Township or Borough] Hempfield Township

Responsible Official M. Curtis Fontaine  
Manager of Operations,  
Engineering  
Municipal Authority of  
Westmoreland County  
124 Park & Pool Road  
New Stanton, PA 15672

Type of Facility Water system

Consulting Engineer

Application Received December 9, 2014  
Date

Description of Action Installation of approximately 1,600 feet of 12-inch diameter waterline along Greensburg-Mount Pleasant Road.

**Application No. 4560004-T1, Minor Amendment.**

Applicant **Glades Pike Estate Mobile Home Park**  
4035 Glades Pike  
Somerset, PA 15501

[Township or Borough] Somerset Township

Responsible Official Margaret Hay, Owner  
Glades Pike Estate Mobile Home Park  
4035 Glades Pike  
Somerset, PA 15501

Type of Facility Water system

Consulting Engineer

Application Received Date December 8, 2014

Description of Action Transfer of the Public Water Supply permit for Glades Pike Estate MHP from Roger Hay to Margaret Hay.

**Application No. 0407507-T1, Minor Amendment.**

Applicant **Lakeview Personal Care**  
498 Lisbon Road  
Darlington, PA 16115

[Township or Borough] Ohioville Borough

Responsible Official Eric Trehar, Administrator  
Lakeview Person Care  
498 Lisbon Road  
Darlington, PA 16115

Type of Facility Water system

Consulting Engineer

Application Received Date December 2, 2014

Description of Action Transfer of the Public Water Supply permit for Lakeview Personal Care from Outlook Pointe Commons to Lakeview Personal Care.

**Application No. 3014517MA, Minor Amendment.**

Applicant **Southwestern Pennsylvania Water Authority**  
1442 Jefferson Road  
PO Box 187  
Jefferson, PA 15344

[Township or Borough] Wayne

Responsible Official John Golding, Manager  
Southwestern Pennsylvania Water Authority  
1442 Jefferson Road  
PO Box 187  
Jefferson, PA 15344

Type of Facility Water system

Consulting Engineer Bankson Engineers, Inc.  
267 Blue Run Road  
Suite 200  
Cheswick, PA 15024

Application Received Date November 30, 2014

Description of Action Installation of approximately 4,940 feet of 8-inch diameter waterline (Oak Forest Road waterline extension).

*Northwest Region: Safe Drinking Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481*

**Application No. 6198501-MA2, Minor Amendment.**

Applicant **Borough of Rouseville**

Township or Borough Rouseville Borough

Responsible Official Ginger McFadden

Type of Facility Public Water Supply

Consulting Engineer Craig J. Bauer, P.E.  
KLH Engineers, Inc.  
5173 Campbells Run Road  
Pittsburgh, PA 15205

Application Received Date November 17, 2014

Description of Action Bankson Hill Storage Tank

**WATER ALLOCATIONS**

**Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth**

*Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200*

**WA 22-53D, Water Allocations. Capital Region Water (PWS ID No. 7010049), Dauphin County.** The applicant is requesting the right to withdraw 13.5 million gallons per day (mgd) from Dehart Reservoir on Clarks Creek and 15.0 mgd from the Susquehanna River, both in Dauphin County, with a combine annual average withdrawal of 15.0 mgd. Applicant Address: Shannon G. Williams PE, Engineering Director, The Harrisburg Authority, 212 Locust Street, Suite 302, Harrisburg, PA 17107-7107. Consulting Engineer: Erin N. Threet, P.E. Herbert Rowland & Grubic, Inc., 130 Buffalo Road, Ste. 103, Lewisburg, PA 17837. Application Received: 12/1/2014.

**LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**

**UNDER ACT 2, 1995  
PREAMBLE 1**

**Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907)**

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P. S. §§ 6026.302—6026.305) require the Department to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. A person intending to use the background standard, Statewide health standard, the site-specific standard or intend to remediate a site as

a special industrial area shall file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of cleanup standards or receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the following site, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified as follows. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office listed before the notice. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Northcentral Region: Environmental Cleanup & Brownfields Program Manager, 208 West Third Street, Williamsport, PA 17701*

**Bower HHO Release**, 108 East Summit Street, Avis Borough, **Clinton County**. MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Paul Bower, 108 East Summit Street, Avis, PA 17721. A heating oil tank at the residence leaked, and contaminated the soil at the property with heating oil. The affected property is zoned residential and will remain residential in the future. The Notice of Intent to Remediate was published in the *Lock Haven Express* on November 11, 2014

**Sunbury Generation LP Coal Yard**, 2394 North Old Trail Road, Shamokin Dam, **Snyder County**. L.R. Kimball, 615 W. Highland Avenue, Ebensburg, PA 15913, on behalf of Sunbury Generation LP, 2394 North Old Trail Road, submitted a Notice of Intent to Remediate. The site was used as a coal storage yard for the coal fired boilers. The site is intended to attain a site specific standard for soils. The Notice of Intent to Remediate was

published in the *Sunbury Daily Item* on August 10, 2014

**Hawkins Chevrolet**, 435 Mill Street, Danville Borough, **Montour County**. ECS Mid-Atlantic, LLC, 56 Grumbacher Road, Suite D, York, PA 17406, on behalf of Hawkins Chevrolet, 435 Mill Street, Danville, PA 17821, submitted a Notice of Intent to Remediate concerning remediation of site soil and groundwater contaminated with volatile organic compounds, semi-volatile organic compounds and lead. The report is intended to document remediation of the site to meet the Site-specific Standard.

*Northeast Region: Eric Supey, Environmental Cleanup and Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**James Property**, 25 Center Avenue, Schuylkill Haven Borough, **Schuylkill County**. Ira Walton, United Environmental Services Inc., has submitted a Notice of Intent to Remediate on behalf of his client, Patrick James, 51 Longview Dr., Schuylkill Haven, PA 17972, concerning the remediation of soil found to have been impacted by #2 fuel oil as a result of a mistaken delivery to the property. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard for soil. The intended future use of the site is residential. A summary of the Notice of Intent to remediate was published in *The Express Times* on March 26, 2012.

**Jeffers Farm Pipeline Right-of-Way**, Harford Township, **Susquehanna County**. Steven Vedder, EP&S of Vermont Inc., has submitted a Notice of Intent to Remediate on behalf of his client, Jeffers Farms Inc., 12330 Pennsylvania 106, Kingsley, PA 18826, and Loomis Lake Association Inc., 20 Lakewood Road, Tunkhannock, PA 18657, concerning the remediation of soil found to have been impacted by Brine related compounds as a result of malfunction on a natural gas pipeline. The applicant proposes to remediate the site to meet the Background Standard, and Residential Statewide Health Standard for soil. The intended future use of the site is a natural gas pipeline right of way surrounded by undeveloped fields/wooded lands. A summary of the Notice of Intent to remediate was published in *The Scranton Times* on October 9, 2012.

**Synthetic Thread Facility**, City of Bethlehem, **Lehigh County**. Douglas Sammak, American Analytical & Environmental Inc., has submitted a Notice of Intent to Remediate on behalf of his client, 378 Development, LP, 1177 6th Street, Whitehall, PA 18052-5212, concerning the remediation of soil and groundwater found to have been impacted by heating oil as a result of a release discovered during the removal of previously abandoned underground storage tanks. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard for soil and groundwater. The intended future use of the site is commercial/residential. A summary of the Notice of Intent to Remediate was published in *The Times News* on October 29, 2012.

*Southwest Region: Environmental Cleanup & Brownfield Development Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

**Indiana Work Center**, 76 Airport Road, White Township, **Indiana County**. Leidos Engineering, LLC., 180 Gordon Drive Suite 109, Exton, PA 19341 on behalf of Verizon Pennsylvania, LLC., 966 South Matlack Street, West Chester, PA 19382 has submitted a Notice of Intent to Remediate (NIR) to meet a combination Site Specific and Statewide Health standards concerning site groundwater contaminated with BTEX and chlorinated solvents,

and site soils contaminated with tetrachloroethylene and chloroform. The intended future use of the property is non-residential/industrial. Notice of the NIR was published in the *Indiana Gazette* on November 22, 2014.

### RESIDUAL WASTE GENERAL PERMITS

**Application(s) Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790*

**General Permit Application No. WMGR017-NE001. Borough of Schuylkill Haven, 12 West Main Street, Schuylkill Haven, PA 17972.** A renewal application for the continued beneficial use of water treatment plant sludge from the Tumbling Run Water Plant located in North Manheim Township, **Schuylkill County**. The application was received by the Regional Office on December 2, 2014 and the application was deemed administratively complete on December 3, 2014.

Comments concerning the application should be directed to Roger, Bellas, Environmental Program Manager, Waste Management Program, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790 at 570-826-2511. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Application received, under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate a Solid Waste Processing or Disposal Area or Site.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Telephone 412-442-4000.*

**Permit ID No. 301267: Allegheny Energy Supply Company, LLC, 800 Cabin Hill Drive, Greensburg, PA 15601-1650.** Armstrong Power Station, S.R. 4006, near Reesedale, Kittanning, PA 16201. An application for a 10-year renewal of the Armstrong Power Station Coal Combustion By-Products (CCB) Landfill in Washington Township, **Armstrong County**. The application was received in the Regional Office on November 17, 2014.

**Permit ID No. WMGR123SW018. TerraAqua Resources Management, LLC, 1000 Commerce Park Drive, Williamsport, PA 17701.** Registration request for authorization for a processing facility for the beneficial use of oil and gas liquid waste proposed to be operated at the MAX Environmental-Bulger Facility in Smith Township, **Washington County**. Application was received in the Regional Office on October 6, 2014 and returned to the applicant on December 10, 2014.

### MUNICIPAL WASTE GENERAL PERMITS

**Application for General Permit Under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17106-9170.*

**General Permit Application No. WMGM017D015. Christopher Pieretti, Kitchen Harvest, Inc. 733 Foss Avenue, Drexel Hill PA, 19026, Delaware County, Middletown Township.** This permit is for the processing and beneficial use of compost of manure, yard waste, source separated food scraps from food markets, grocery stores, food banks, food distribution centers, school cafeterias and institutions, source-separated newspaper and source-separated corrugated paper as soil substitute, soil conditioner, fertilizer, mulch or soil amendment. The application was deemed administratively complete by the Bureau of Waste Management on December 5, 2014.

Persons with questions may contact Scott E. Walters, Chief, Permits Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

### AIR QUALITY

#### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

The Department has developed an “integrated” plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the general public. This approach allows the owner or operator of a facility to submit permitting documents relevant to its application for all sources related to a facility or a proposed project, affords an opportunity for public input, and provides for a decision on the issuance of the necessary permits.

The Department received applications for Plan Approvals or Operating Permits from the following facilities.

Copies of the application, the Department’s analysis, all pertinent documents used in the evaluation of the application and subsequently prepared proposed plan approvals/operating permits are available for public review during normal business hours at the appropriate Department Regional Office. Appointments for scheduling a review must be made by calling the appropriate Department Regional Office. The address and phone number of the Regional Office is listed before the application notices.

Persons wishing to file a written protest or provide comments or additional information, which they believe should be considered prior to the issuance of a permit, may submit the information to the Department’s Regional Office. A 30-day comment period from the date of this publication will exist for the submission of comments, protests and information. Each submission must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval/Operating Permit including the permit

number and a concise statement regarding the relevancy of the information or objections to issuance of the permit.

A person wishing to request a hearing may do so during the 30-day comment period. A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines this type of notification is sufficient. Requests for a public hearing and any relevant information should be directed to the appropriate Department Regional Office.

Permits issued to the owners or operators of sources subject to 25 Pa. Code Chapter 127, Subchapter D or E, or located within a Title V facility or subject to 25 Pa. Code § 129.51(a) or permits issued for sources with limitations on their potential to emit used to avoid otherwise applicable Federal requirements may be submitted to the United States Environmental Protection Agency for review and approval as a revision to the State Implementation Plan. Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the sources are constructed and operating in compliance with applicable requirements in the Air Pollution Control Act (35 P. S. §§ 4001—4015), 25 Pa. Code Chapters 121—145, the Federal Clean Air Act (42 U.S.C.A. §§ 7401—7671q) and regulations adopted under the Federal Clean Air Act.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507*

**35-00069A: Lackawanna Energy Center LLC** (1 South Wacker Drive, Suite 1900, Chicago, IL 60606) has submitted a revised application to the Pennsylvania Department of Environmental Protection for plan approval to construct a natural gas-fired combined-cycle power plant to produce a nominal 1,500 MW of electricity in Jessup Borough, **Lackawanna County**.

The project consists of three (3) identical 1 x 1 power blocks. Each combined-cycle process block includes one (1) combustion gas turbine and one (1) heat recovery steam generator with duct burners with all three (3) blocks sharing one (1) steam turbine. Additionally, one (1) 2,000 kW diesel-fired emergency generator, one (1) 315 HP diesel-fired emergency fire water pump, one (1) twenty (20) cell wet mechanical draft cooling tower, one (1) 184.8 MM BTU/hr natural gas fired boiler, one (1) 12 MMBTU/hr natural gas fuel gas heater, one (1) diesel storage tank, three (3) lube oil storage tanks, and one (1)

aqueous ammonia storage tank are proposed to be constructed and operated. The heat input rating of each combustion gas turbine is 3304.3 MMBtu/hr (HHV) or less, and the heat input rating of each supplemental duct burner is equal to 637.9 MMBtu/hr (HHV) or less.

This application is subject to the Prevention of Significant Deterioration (PSD) of Air Quality regulations of 40 CFR 52.21, the Nonattainment New Source Review (NNSR) regulations of 25 Pa. Code §§ 127.201—27.218, and the Best Available Technology (BAT) requirements of 25 Pa. Code §§ 127.1 and 127.12. The facility's total particulate matter (PM) including total PM<sub>10</sub> and total PM<sub>2.5</sub>, nitrogen oxides, carbon monoxide, volatile organic compounds, and greenhouse gas emissions are subject to the PSD requirements. The facility's nitrogen oxides and volatile organic compounds emissions are also subject to the NNSR requirements. The Department has determined that the proposed levels of the air contaminants emissions satisfy best available control technology (BACT) and Lowest Achievable Emission Rate (LAER) requirements as well as the Department's BAT requirements.

The facility is also subject to the following Standards of Performance for New Stationary Sources (NSPS): 40 CFR Part 60 Subpart KKKK—Standards of Performance for Stationary Combustion Turbines codified in 40 CFR 60.4300 through 60.4420 and 40 CFR Part 60 Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines codified in 40 CFR 60.4200 through 60.4219. The proposed project is also subject to the National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines codified 40 CFR 63.6580 through 63.6675 as applicable to the proposed diesel-fired engines. The Department has determined that this facility satisfies all applicable requirements of these subparts including Maximum Achievable Control Technology (MACT) requirements.

Pursuant to the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, Lackawanna Energy Center LLC has performed dispersion modeling. The air quality analysis methodology is consistent with the "Guideline on Air Quality Models" codified in Appendix W to 40 CFR Part 51, associated United States Environmental Protection Agency modeling policy and guidance, and the Department's recommendations. The air quality analysis adequately demonstrates that the proposed emissions due to the project will not cause or significantly contribute to air pollution in violation of the National Ambient Air Quality Standards for carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), particulate matter less than 2.5 micrometers (PM<sub>2.5</sub>), and particulate matter less than 10 micrometers (PM<sub>10</sub>), and the PSD standards for NO<sub>2</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub>. In addition, the analysis adequately demonstrates that the project's proposed emissions, in conjunction with anticipated emissions due to general commercial, residential, industrial, and other growth associated with the project, will not impair visibility, soils, and vegetation. Furthermore, the effect of the project's emissions on air quality related values, including visibility, in Federal Class I areas is adequately addressed.

The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No.: 35-00069A and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone 570-826-2511 within 30 days after publication date.

**48-00021A: Northampton Generating Company LP** (1 Horwith Drive, Northampton, PA 18067) for the modification to their operating permit by revising Lead emissions limit while burning TDF in the existing CFB boiler at their facility located in Northampton Borough, **Northampton County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Mark R. Gorog, P.E., Environmental Engineer Manager—Telephone: 412-442-4150*

**63-00922C: Robinson Power Company, LLC** (P.O. Box 127, 563 Route 18, Burgettstown, PA 15021) for a 2x1 combined cycle gas-fired turbine project with HRSG rated between 650 and 700 MW at the Beech Hollow Power Plant in Robinson Township, **Washington County**. This is an initial major facility Plan Approval application submittal.

**63-00990A: Donora Dock, LLC** (11 Lloyd Avenue, Suite 200, Latrobe, PA 15650) for a coal handling facility at the Donora Terminal in Carroll Township, **Washington County**. This is an initial minor facility Plan Approval application submittal.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6636*

**16-149B: Clarion Laminates** (143 Fiberboard Road, Shippensburg, PA 16254), for the construction of a 3rd bonding line with baghouse and upgrading the current dust transfer system with bin filters in Paint Township, **Clarion County**. This is a State Only facility.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**09-0228: Elcon Recycling Services, LLC** (100 Dean Sievers Place, Morrisville, PA 19067) for the construction and operation of an industrial waste water treatment facility located in Falls Township, **Bucks County**. The facility will employ various chemical and physical treatment technologies to remove hazardous constituents from liquid waste streams. A thermal oxidizer and scrubber will be used to control air emissions from all process operations. Baghouses will be used to control the handling of dry materials and a carbon adsorption system will be used during plant downtime. A 20.0 MMBtu/hr boiler is proposed to be installed at this facility under a general permit. The primary pollutant of concern from this facility will be volatile organic compounds (VOC) with a potential to emit of 6.7 tons per year. The plant will be a minor facility based on its potential emissions. The plan approval will include monitoring, recordkeeping, and reporting requirements designed to address all applicable air quality requirements.

**15-0010D: ArcelorMittal Plate, LLC** (139 Modena Road, Coatesville, PA 19320; Attn: Mr. Ray Ajalli), for the replacement of an 8.0-MMBtu ladle pre-heat burner with a 12.0-MMBtu ladle pre-heat burner, at their facility located in the City of Coatesville, **Chester County**. This facility is a Title V facility. The 8.0-MMBtu ladle pre-heat burner, a component of Source ID 229, will be replaced by a 12.0-MMBtu ladle pre-heat burner, designated as Source ID 229A. The new ladle pre-heat burner will be subject to short-term limits of 0.11 lb/MMBtu (116.0 lbs/MMcf of natural gas) for NO<sub>x</sub> and 84.0 lbs/MMcf of natural gas for CO. Potential annual emissions of NO<sub>x</sub> will be equal to or less than 5.92 TPY. Potential annual emissions of CO will be equal to or less than 4.29 TPY. Potential annual emissions of PM, VOC, SO<sub>x</sub>, and HAP will all be less than 1.0 TPY. The Plan Approval will contain testing, monitoring, recordkeeping, and work practice requirements designed to keep Source ID 229A operating within the allowable emissions and all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507*

**PA 66-00001C: Procter and Gamble Paper Company** (P. O. Box 32, Route 87 South, Mehoopany, PA 18629) for construction and operation of the following in Washington Township, **Wyoming County**: P&G proposes to add a new process capability to the converting area, in which a polymer suspension is extruded onto the surface of the finished product. It will be stored in portable totes and pumped to the converting machines for application. The coating will be extruded in an "as-received" form (i.e. un-diluted) to the surface of the paper product, and absorbed prior to winding the paper onto cores. No drying operations or additional chemical treatments are proposed as part of this project.

P&G is proposing to add this extrusion capability to the following paper converting lines: MC2.

The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements. Also, the company shall be required to monitor and record VOC emissions.



Additionally a PSD and NSR applicability analysis was conducted to determine if the Project would result in a significant net increase of any regulated pollutant. This analysis took into account emission increases attributable to the installation of the modification to the converting lines, emission increases during the contemporaneous period, and emission decreases. The analysis has determined that the proposed modification project to the converting lines does not trigger the requirements of Prevention of Significant Deterioration or Nonattainment New Source Review permitting regulations.

This facility is a Title V facility. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the operations within all applicable air quality requirements.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Mark R. Gorog, P.E., Environmental Engineer Manager—Telephone: 412-442-4150*

**65-00990C: Tenaska Pennsylvania Partners, LLC** (14302 FNB Parkway, Omaha, NE 68154) Notice is hereby given in accordance with 25 Pa. Code §§ 127.44—127.46 that the Department of Environmental Protection (DEP) intends to issue plan approval no. 65-00990C to Tenaska Pennsylvania Partners, LLC (Tenaska) for the construction and temporary operation of a 930—1,065 MW combined cycle natural gas-fired electric generating facility known as the Westmoreland Generating Station in South Huntingdon Township, **Westmoreland County**. Tenaska has proposed to construct and temporarily operate two (2) 3,147 MMBtu/hr Mitsubishi “J” class combined

cycle combustion turbines serving one steam turbine generator equipped with heat recovery steam generators (HRSG) with supplemental 400 MMBtu/hr natural gas fired duct burners controlled by selective catalytic reduction and oxidation catalysts, one (1) 245 MMBtu/hr natural gas-fired auxiliary boiler, one (1) 2,000 kW diesel-fired emergency generator engine, one (1) 575 bhp diesel-fired emergency fire pump engine, and a cooling tower controlled by drift eliminators.

Potential to emit from the facility will be limited to 373.00 tons of nitrogen oxides (NO<sub>x</sub>), 2,310.00 tons of carbon monoxide (CO), 23.00 tons of sulfur oxides (SO<sub>x</sub>), 1,251.00 tons of volatile organic compounds (VOC), 22.07 tons of total hazardous air pollutants (HAPs), 96.00 tons of particulate matter (filterable and condensable), 92.00 tons of particulate matter with an aerodynamic diameter less than 10 microns (filterable and condensable), 89.00 tons of particulate matter with an aerodynamic diameter less than 2.5 microns (filterable and condensable), 15.20 tons of sulfuric acid mist (H<sub>2</sub>SO<sub>4</sub>), 194.00 tons of ammonia (NH<sub>3</sub>), and 3,827,574 tons of carbon dioxide equivalents (CO<sub>2</sub>e) per year.

This application is subject to the Prevention of Significant Deterioration (PSD) requirements of 40 CFR 52.21, New Source Review (NSR) requirements of 25 Pa. Code Chapter 127, Subchapter E, and the Best Available Technology (BAT) requirements of 25 Pa. Code § 127.1. The Department has determined that the proposed facility satisfies best available control technology (BACT), lowest achievable emission rate (LAER), and the DEP’s BAT requirements. Air modeling provided by the applicant indicates the following impacts:

<i>Pollutant</i>	<i>Scenario (Load)</i>	<i>Averaging Period</i>	<i>Modeled Maximum Concentration (µg/m<sup>3</sup>)</i>	<i>Increment (µg/m<sup>3</sup>)</i>	<i>% of Standard</i>
PM <sub>10</sub>	100%	24-hour	10.1	30	33.8
	Worst-Case	24-hour	10.1	30	33.8
	Startup/Shutdown	24-hour	10.1	30	33.8
PM <sub>10</sub>	100%	Annual	2.3	17	13.4
	Worst-Case	Annual	2.3	17	13.7
NO <sub>2</sub>	100%	Annual	9.9	25	39.6
	Worst-Case	Annual	10.1	25	40.5

The DEP’s technical review concludes that Tenaska’s air quality analysis satisfies the requirements of the PSD rules and is consistent with the U.S. Environmental Protection Agency’s (EPA) Guideline on Air Quality Models (40 CFR Part 51, Appendix W) and the EPA’s air quality modeling policy and guidance. Furthermore, the DEP’s technical review concludes that Tenaska’s air quality analysis demonstrates, pursuant to 40 CFR § 52.21(k), that Tenaska’s proposed emissions will not cause or contribute to air pollution in violation of the National Ambient Air Quality Standards (NAAQS) for CO, NO<sub>2</sub>, and PM<sub>10</sub>, and the PSD increment standards for NO<sub>2</sub> and PM<sub>10</sub>.

The proposed sources are also subject to the following Standards of Performance for New Stationary Sources (NSPS): 40 CFR Part 60 Subpart D—Standards of Performance for Industrial-Commercial-Institutional Steam

Generating Units, 40 CFR Part 60 Subpart IIII—Standards of Performance for Compression Ignition Internal Combustion Engines, and 40 CFR Part 60 Subpart KKKK—Standards of Performance for Stationary Combustion Turbines. The authorization is subject to State regulations including 25 Pa. Code §§ 123.1, 123.2, 123.31 and 123.41. This plan approval has been conditioned to ensure compliance with all applicable rules. This includes emission restrictions, operational restrictions, testing, monitoring, recordkeeping, reporting, and work practice requirements. Once compliance with the Plan Approval is demonstrated, the applicant will subsequently apply for a Title V Operating Permit in accordance with 25 Pa. Code Subchapter G.

In accordance with 40 CFR 52.21(l)(2), where an air quality model specified in the U.S. Environmental Protection Agency’s (EPA) *Guideline on Air Quality Models* (40

CFR Part 51, Appendix W) is inappropriate, the model may be modified on a case-by-case basis. Written approval of the EPA Regional Administrator must be obtained for the use of a modified model. In addition, the use of a modified model must be subject to notice and opportunity for public comment under procedures developed in accordance with 40 CFR § 52.21(q). The air quality analysis for nitrogen dioxide (NO<sub>2</sub>) for the proposed Tenaska Pennsylvania Partners, LLC (Tenaska) facility utilizes the Plume Volume Molar Ratio Method (PVMRM), which is currently implemented as a non-regulatory-default option within the EPA's recommended near-field dispersion model, the American Meteorological Society / Environmental Protection Agency Regulatory Model (AERMOD). In accordance with the recommendations under subsection 3.2 of the EPA's *Guideline on Air Quality Models*, the DEP submitted a request to EPA Region III for approval of the use of the PVMRM in Tenaska's air quality analysis for NO<sub>2</sub> on December 7, 2012. The EPA Regional Administrator approved the DEP's request on February 22, 2013. Pursuant to 25 Pa. Code §§ 127.44 and 127.83, and 40 CFR § 52.21(l)(2) and (q), notice is hereby given that the DEP is expressly soliciting written comments on the use of the PVMRM in Tenaska's air quality analysis for NO<sub>2</sub>.

A person may oppose the proposed plan approval by filing a written protest with the DEP through Alexander Sandy, Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA, 15222. Additional written comments may also be submitted. Each protest or set of written comments must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval (PA-65-00990C) and a concise statement of the objections to the plan approval issuance and the relevant facts upon which the objections are based.

All comments must be received prior to the close of business 30 days after the date of this publication.

**04-00235:** In accordance with 25 Pa. Code Chapter 127, the Department of Environmental Protection (DEP) is providing notice that it intends to modify a Title V Operating Permit (TVOP-04-00235) previously issued on November 16, 2012 to authorize the continued operation of the Bruce Mansfield Plant located in Shippingport Boro, **Beaver County**. The name and address of the operator of the facility is FirstEnergy Generation, LLC, 76 S. Main St., 13th Floor, Akron, OH 15077.

**32-00055:** This Title V permit will be modified to make changes to Conditions B.#013(b), B.#014(b), B.#017(e), B.#025(b) and B.#028(c) and (d). Changes will remove language that might be interpreted to extend a future permit shield to as yet unidentified activities that may be authorized under the minor permit modification provisions of 25 Pa. Code § 127.462, the Administrative Amendment provisions of 25 Pa. Code § 127.450, the De Minimis Emission Increase provisions of 25 Pa. Code § 127.449, the Operational Flexibility provisions of 25 Pa. Code § 127.3 and the Permit Shield provisions of 25 Pa. Code § 127.516. This action is being taken in response to an Order issued by EPA on July 30, 2014 in response to the September 10, 2012, October 22, 2012, and May 15, 2013 Requests for Objection to the Issuance of a Title V Operating Permit at Petition Numbers III-2012-06, III-2012-07, and III-2013-02. No other changes to the Title V Operating Permit, actual emissions of any air contaminant or equipment are being proposed by this action.

## OPERATING PERMITS

### Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4762, Lisa Dorman, New Source Review Permitting Chief—Telephone: 717-705-4863 or William Weaver, Regional Air Quality Manager, Telephone: 717-705-4702.*

**36-05053: Buck Co., Inc.** (897 Lancaster Pike, Quarryville, PA 17566) for operation of a ferrous and nonferrous foundry in Providence Township, **Lancaster County**. Actual emissions from the facility in 2013 were estimated at 0.23 ton CO, 2.46 tons NO<sub>x</sub>, 40.60 tons PM<sub>10</sub>, 14.10 tons PM<sub>2.5</sub>, 0.32 ton SO<sub>x</sub>, 165.59 tons VOC, 0.50 ton of a single HAP (methylene diphenyl diisocyanate), and 0.85 ton of combined HAPs. The Title V Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR 63, Subpart ZZZZZ—National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources, 40 CFR 63, Subpart ZZZZZZ—National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries & 40 CFR 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648*

**18-00001: Columbia Gas Transmission LLC** (1700 MacCorkle Ave. SE, Charleston, WV 25314) a Title V operating permit renewal for the Renovo Compressor Station located in Chapman Township, **Clinton County**. In accordance with 25 Pa. Code § 127.521, the Department of Environmental Protection (DEP) has received an application and intends to issue a renewal of an Air Quality Operating Permit for the abovementioned facility.

The subject facility has the following potential emissions: 167.27 TPY of CO; 125.74 TPY of NO<sub>x</sub>; 0.09 TPY of SO<sub>x</sub>; 4.36 TPY of PM/PM<sub>10</sub>; 19.43 TPY of VOCs; 8.67 TPY of total HAPs; 4.63 TPY of formaldehyde; and 17,217 TPY of CO<sub>2e</sub>. The facility's sources include five (5) natural gas-fired compressor engines, one (1) natural gas-fired emergency generator engine, ten (10) storage tanks, various natural gas-fired combustion units (boilers, heater and line heaters) and various fugitive emissions, which have the potential to emit major quantities of nitrogen oxides (NO<sub>x</sub>) and carbon monoxide (CO) emissions. The facility has the potential to emit sulfur oxides (SO<sub>x</sub>), particulate matter (PM/PM<sub>10</sub>), volatile organic compounds (VOCs) and hazardous air pollutants (HAPs) below the major emission thresholds. The emission limits and work practice standards along with testing, monitoring, record keeping and reporting requirements have been included in the operating permit to ensure the facility complies with all applicable Federal and State air quality regulations. These operating permit conditions have been derived from the applicable requirements of 40 CFR Parts 52, 60, 63, 64, 68, 72, 73, 74, 75, 76, 96, 97, 98 and 25 Pa. Code Chapters 121—145.

All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northcentral Regional office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling 570-327-0550.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174*

**65-00693: USA Valley Facility, Inc.** (625 Cherrington Parkway, Cherrington Corporate Center, Moon Township, PA 15108-4314) for continued operation of a solid waste landfill at the Valley Landfill in Penn Township, **Westmoreland County**. This is a Title V Operating Permit renewal application submittal.

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**Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**09-00107: Oldcastle Retail, Inc., d/b/a Bonsal American** (1214 Hayes Blvd., Bristol, PA 19007), for the renewal of a State Only, Synthetic Minor Operating Permit in Bristol Township, **Bucks County**. The company operates a concrete and mortar packaging facility. The proposed renewal of the Operating Permit does not authorize any increase in air emissions, of regulated pollutants, above previously approved levels. The renewed permit includes monitoring, recordkeeping and reporting requirements, and work practice standards designed to keep the facility operating within all applicable local, state, and federal air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507*

**13-00016: Haulmark Industries, Inc.** (6 Banks Avenue, McAdoo, PA 18237) The Department intends to issue a State Only (Synthetic Minor) Operating Permit for a trailer manufacturing facility in Banks Township, **Carbon County**. The facility has the potential to emit Volatile Organic Compounds (VOCs) and Hazardous Air Pollutants (HAPs) above major emission thresholds. The facility is taking site level emission limitations to maintain Synthetic Minor status. The proposed State Only (Synthetic Minor) Operating Permit contains applicable requirements for emissions limitations, monitoring, record keeping, reporting and work practice standards designed to ensure facility compliance with Federal and State air pollution regulations.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648*

**59-00027: UGI Storage Company** (1 Meridian Blvd., Suite 2C01, Wyomissing, PA 19610) to issue a State Only Operating Permit for the operation of the Palmer Compressor Station located in Farmington Township, **Tioga County**. The facility is currently operating under Plan Approval 59-00027A. The facility's main sources include

two (2) 1380 bhp and one (1) 690 bhp natural gas-fired compressor engines, and one (1) 1100 bhp diesel-fired emergency generator engine.

The facility has potential annual emissions of 23.7 tons of nitrogen oxides, 9.0 tons of carbon monoxide, 1.5 ton of particulate matter, 6.3 tons of volatile organic compounds, 2.6 tons of hazardous air pollutants, including formaldehyde, and 25,210 tons of carbon dioxide equivalents (greenhouse gas). The compressor engines are subject to 40 CFR Part 60, Subpart JJJJ—New Source Performance Standards for Stationary Spark Ignition Internal Combustion Engines. The emission limits, throughput limitations and work practice standards along with testing, monitoring, record keeping and reporting requirements have been included in the operating permit to ensure the facility complies with all applicable Federal and State air quality regulations. These operating permit conditions have been derived from the applicable requirements of 25 Pa. Code Chapters 121—145 as well as 40 CFR Parts 60 and 63.

All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northcentral Regional office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling 570 327 0550.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-4174*

**03-00093: Murray Keystone Processing, Inc.** (46226 National Road W, Saint Clairsville, OH 43950-8742) to continue nonmetallic mineral mining operations at the Keystone Cleaning Plant in Plumcreek Township, **Armstrong County**. This is a State-Only Operating Permit renewal application submittal.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6131*

**20-00037: US Bronze Foundry & Machine, Inc.**, (PO Box 458, Meadville, PA 16335) to issue the renewal of the State Only Operating Permit for the foundry facility located in Woodcock Township, **Crawford County**. The primary sources at the facility include natural gas combustion for building heat; a natural gas fueled mold & core drying oven; 14 induction furnaces; 2 paint booths; a sand handling system; and a parts washer. The facility is a Natural Minor. Potential emissions are less than the Title V thresholds. The facility is subject to 40 CFR Part 63 Subpart ZZZZZZ, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries. The renewal permit contains emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

**37-00280: Three Rivers Aggregates, LLC**, (1288 Reese Road, Slippery Rock, PA 16067), to renew a State Only Operating Permit for the McCandless Plant located in Plain Grove Township, **Lawrence County**. The primary sources at the facility are a sand and gravel plant and an emergency-use diesel engine generator. The permit includes a restriction on operating hours for the plant of 4,410 hours per year. The facility is a Synthetic Minor. Potential emissions are 1.24 tpy NO<sub>x</sub>; 11.6 tpy PM; 0.07 tpy CO; and 0.04 tpy VOC. The plant is subject to 40 CFR

Part 60 Subpart 000, the Standards of Performance for Nonmetallic Mineral Processing Plants. And the engine is subject to 40 CFR Part 63 Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. It is also subject to the conditions of the previously issued general plan approval, GP-3. The permit contains emission restrictions, recordkeeping, and work practice requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

**42-00196: Catalyst Energy Swamp Angel Compressor Station** (424 S. 27th Street Suite 304, Pittsburgh, PA 15203-2380), to issue a renewal State Only Operating Permit for the natural gas stripping plant located in Lafayette Township, **McKean County**. The facility is a Natural Minor. The primary sources at the facility include an inlet compressor (1265 HP), an electrically driven industrial refrigeration plant, storage tanks, and an ethylene glycol dehydration unit. The facility is subject to 40 CFR Part 60 Subparts KKK and VV pertaining to Onshore Natural Gas Processing Plants and Leak Detection and Repair. The facility processes less than 10 mmcf/day of natural gas. The compressor engine is subject to 40 CFR 63 Subpart ZZZZ—NESHAPs for Stationary Reciprocating Internal Combustion Units. The dehydration unit is subject to 40 CFR 63 Subpart HH—NESHAPs from Oil and Natural Gas Production Facilities. Actual emissions from the facility are less than the Title V emission thresholds. The conditions of the previous plan approval and operating permit were incorporated into the renewal permit.

#### PLAN APPROVALS

**Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B And Subchapter F. These actions may include the administrative amendments of an associated operating permit.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507*

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), that the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to **GRUMA Corporation d/b/a Mission Foods** (15 Elmwood Avenue, Mountaintop, PA 18707) for their facility located in Wright Twp., **Luzerne County**. This Plan Approval No. 40-00109A will be incorporated into a State Only Permit through an administrative amendment at a later date.

Plan Approval No. 40-00109A is for the construction of a new Tortilla Press and new ink-jet printers at the facility. The company shall be subject to and comply with 25 Pa. Code § 123.41 for Visible emissions. The facility is subject to 25 Pa. Code § 127.12 (a) (5) Best Available Technology (BAT) requirements. The company shall be subject to and comply with 25 Pa. Code § 123.31 for malodorous emissions. These limits will meet BAT requirements for this source. The Plan approval and Operating Permit will include testing, monitoring, record keeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are

available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No.: 40-00109A and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone 570-826-2511 within 30 days after publication date.

### COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.20a). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department. A copy of the application is available for inspection at the district mining office indicated before each application. Notices of requests for 401 Water Quality Certifications are included in individual application notices, as noted.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application and request for Section 401 water quality certification application may be submitted by any person or any officer or head of any Federal, state or local government agency or authority to the Department at the address of the district mining office indicated before each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections regarding a mining permit application should contain the name, address and telephone number of persons submitting comments or objections, application number and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

A request for an informal conference or a public hearing, as applicable, on a mining permit application, as

provided by 25 Pa. Code § 77.123 or § 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When an NPDES number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. A separate notice will be provided after the draft NPDES permit is prepared.

#### *Coal Applications Received*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900*

**Permit No. 32823005 and NPDES No. PA0607231. Blairsville Associates**, P.O. Box 157, Blairsville, PA 15717, commencement, operation and restoration of a bituminous surface and auger mine to change the land use from Pastureland and Wildlife Habitat to Light Industrial in Burrell and West Wheatfield Townships, **Indiana County**, affecting 367.0 acres. Receiving stream: unnamed tributary to Palmers Run classified for the following use: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 21, 2014.

**Permit No. 56813104 and NPDES No. PA0599115. PBS Coals, Inc.**, 1576 Stoystown Road, P.O. Box 260, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County** affecting 344.7 acres. Receiving streams: unnamed tributaries to/and Tubs Run, classified for the following use: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 21, 2014.

**Permit No. 56990102 and NPDES No. PA0235105. Heritage Coal & Natural Resources, LLC**, 208 W. Mud Pike, Rockwood, PA 15557, permit renewal for reclamation only of a bituminous surface mine in Elk Lick Township, **Somerset County** affecting 87.8 acres. Receiving streams: unnamed tributaries to/and Tub Mill Run and unnamed tributaries to/and Casselman River, classified for the following uses: cold water fishery and warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 25, 2014.

**Permit No. 56890111 and NPDES No. PA0598577. Heritage Coal & Natural Resources, LLC**, 208 W. Mud Pike, Rockwood, PA 15557, permit renewal for reclamation only of a bituminous surface mine in Elk Lick Township, **Somerset County** affecting 66.3 acres. Receiving streams: unnamed tributaries to/and Tub Mill Run and unnamed tributaries to/and Casselman River,

classified for the following uses: cold water fishery and warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 25, 2014.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**17080114 and NPDES PA0256951. Waroquier Coal Co.** (P.O. Box 128, Clearfield, PA 16830). Permit renewal to an existing bituminous surface and auger mine located in Jordan Township, **Clearfield County** affecting 102.2 acres. Receiving streams: North Witmer Run and Davidson Run classified for the following use(s): CWF. There are no potable water supply intakes within 10 miles downstream. Application received: November 21, 2014.

*New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500*

**30140101 and NPDES Permit No. PA0278106. Stash Mining LLC** (675 Old Route 51 Rd., Waltersburg, PA 15488). Application for commencement, operation and restoration of bituminous surface mine, located in Monongahela Township, **Greene County**, affecting 150 acres. Receiving streams: unnamed tributaries to Monongahela River and Whiteley Creek, classified for the following use: WWF. The potable water supplies with intake within 10 miles downstream from the point of discharge: Masontown Municipal Authority and Carmichaels Municipal Authority. Application received: November 14, 2014.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**Permit No. 54040203R2. Wheelabrator Culm Services, Inc.**, (4 Liberty Lane West, Hampton, NH 03842), renewal of an existing anthracite coal refuse reprocessing operation in Mahanoy Township, **Schuylkill County** affecting 42.1 acres, receiving stream: North Mahanoy Creek, classified for the following uses: cold water fishes and migratory fishes. Application received: October 31, 2014.

**Permit No. 13890201R5 and NPDES Permit No. PA0594580. Panther Creek Permitting, LLC**, (4 Denison Road, Nesquehoning, PA 18240), renewal of an existing anthracite coal refuse reprocessing and ash disposal operation in Nesquehoning Borough, **Carbon County** affecting 76.8 acres, receiving stream: Nesquehoning Creek, classified for the following uses: cold water and migratory fishes. Application received: November 12, 2014.

#### *Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500*

**63090601 and NPDES Permit No. PA0251712. Mon River Aggregates, LLC** (P.O. Box 435, Millsboro, PA 15348). Transfer application to an existing large noncoal surface mine permitted by Arthur J. Boyle, located in East Bethlehem Township, **Washington County**, affecting 50.3 acres. Receiving streams: unnamed tributaries to Ten Mile Creek and Ten Mile Creek, classified for the following use: WWF. The potable water supplies with intake within 10 miles downstream from the point of discharge: PA American Water Co./Brownsville Plant and Tri County Joint Municipal Authority. Transfer application received: October 29, 2014.

**63090601 and NPDES Permit No. PA0251712. Mon River Aggregates, LLC** (P.O. Box 435, Millsboro, PA 15348). NPDES renewal application to an existing large noncoal surface mine, located in East Bethlehem Township, **Washington County**, affecting 50.3 acres. Receiving streams: unnamed tributaries to ten Mile Creek and Ten Mile Creek, classified for the following use: WWF. The potable water supplies intake within 10 miles downstream from the point of discharge: PA American Water Co./Brownsville Plant and Tri County Joint Municipal Authority. Renewal application received: October 29, 2014.

### MINING ACTIVITY NPDES DRAFT PERMITS

This notice provides information about applications for a new, amended or renewed NPDES permits associated with mining activity (coal or noncoal) permits. The applications concern industrial waste (mining) discharges to surface water and discharges of stormwater associated with mining activities. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

The Department of Environmental Protection (Department) has prepared a draft NPDES permit and made a tentative determination to issue the NPDES permit in conjunction with the associated mining activity permit.

#### *Effluent Limits for Coal Mining Activities*

For coal mining activities, NPDES permits, when issued, will contain effluent limits that are the more stringent of technology-based (BAT) effluent limitations or Water Quality Based Effluent Limits (WQBEL).

The BAT limits for coal mining activities, as provided in 40 CFR Part 434 and 25 Pa. Code Chapters 87—90 are as follows:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (Total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applies to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; mined areas backfilled and revegetated; and all other discharges and drainage (resulting from a precipitation event of greater than 1-year 24-hour to less than or equal to a 10-year 24-hour event) from coal refuse disposal piles. Similarly, modified BAT limits apply to iron, manganese and suspended solids in surface runoff, discharges and drainage resulting from these precipitation events and those of greater magnitude in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Exceptions to BAT effluent limits may be applicable in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

#### *Effluent Limits for Noncoal Mining Activities*

The limits for noncoal mining activities as provided in 25 Pa. Code Chapter 77 are pH 6 to 9 and other parameters the Department may require.

Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional water quality based effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description specifies the parameters.

In addition to BAT or WQBEL limits, coal and noncoal NPDES permits establish effluent limitations in the form of implemented Best Management Practices (BMPs) identified in the associated Erosion and Sedimentation Plan, the Reclamation Plan and the NPDES permit application. These BMPs restrict the rates and quantities of associated pollutants from being discharged into surface waters in this Commonwealth.

More restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining that may occur are incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 563-2112-115, Developing National Pollutant Discharge Elimination System (NPDES) Permits for Mining Activities. Other specific factors to be considered include public comments and Total Maximum Daily Load(s). Additional discharge limitations may apply in the event that unexpected discharges occur.

Discharge rates for surface mining activities are precipitation driven. Discharge rates for proposed discharges associated with underground mining are noted in the permit description.

Persons wishing to comment on an NPDES draft permit should submit a written statement to the Department at the address of the district mining office indicated before each draft permit within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92a.82(d). The request or petition for a public hearing shall be filed within 30 days of this public notice and contain the name, address, telephone number and the interest of the party filing the request, and state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. When a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

#### *Coal NPDES Draft Permits*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900*

**NPDES No. PA0279307 (Mining Permit No. 05130101), Robindale Energy Services, Inc.**, 224 Grange Hall Road, Armagh, PA 15920, new NPDES permit for a bituminous surface mine in Broad Top Township, **Bedford County**, affecting 302.5 acres. Receiving streams: unnamed tributary to Six Mile Run, Shreves Run and unnamed tributary to Longs Run, classified for the following use: warm water fishery. These receiving streams are included in the Six Mile Run Watershed and Longs and Sandy Run Watershed TMDLs. Application received: June 20, 2014.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The treated wastewater outfalls listed below, discharge to an unnamed tributary to Longs Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
002	Y
003	Y
004	Y

The proposed effluent limits for the above listed outfalls are as follows:

<i>Outfalls: 001, 002, 003, 004</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	0.75	0.75
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times			
Alkalinity must exceed acidity at all times			

The stormwater outfalls listed below discharge to an unnamed tributary to Six Mile Run, Shreves Run and an unnamed tributary to Longs Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
005	Y
006	Y
007	Y
008	Y
009	Y
010	Y
011	Y
012	Y
013	Y
014	Y
015	Y

This proposed mine site also contains, or is hydrologically connected to, substandard discharges for which there is no responsible party. Pursuant to 25 Pa. Code § 87.201, effluent limits for those discharges will be based upon the existing baseline pollution load, or the standards found at 25 Pa. Code § 87.102(a) Group A, whichever is least stringent.

*Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**NPDES No. PA0259055 (Permit No. 24110101). RES Coal, LLC** (P.O. Box 228, Armagh, PA 15920) Renewal of an NPDES permit for a bituminous surface mine in Fox Township, **Elk County**, affecting 101.0 acres. Receiving streams: Little Toby Creek, classified for the following uses: CWF. TMDL: Little Toby Creek. Application received: October 20, 2014.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities. The outfall(s) listed below discharge to Little Toby Creek:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
C	N
D	N
E	N

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Aluminum (mg/l)		0.75	1.5	1.88
Alkalinity greater than acidity <sup>1</sup>				
Total Suspended Solids (mg/l)		35	70	90

<sup>1</sup>The parameter is applicable at all times.

The outfall(s) listed below discharge to Little Toby Creek:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
A	N
B	N

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)				7.0
Alkalinity greater than acidity <sup>1</sup>				
Total Settleable Solids (ml/l)				0.5

#### *Noncoal NPDES Draft Permits*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900*

**NPDES No. PA0212512 (Mining Permit No. 4274SM11), New Enterprise Stone & Lime Company, Inc., P.O. Box 77, New Enterprise, PA 16664**, revision of an NPDES permit for quarry in Taylor Township, **Blair County**, affecting 457.4 acres. Receiving streams: Halter Creek and Plum Creek, classified for the following uses: existing use of Halter Creek—cold water fishery; existing use of Plum Creek—high quality cold water fishery. Application received: October 8, 2014.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for noncoal mining activities.

The outfalls listed below discharge to Halter Creek:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
002	N
005	N
006	N
007	N
008	N

The outfalls listed below discharge to Plum Creek:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
003	N
004	N
010	N

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**NPDES Permit No. PA022525 on Surface Mining Permit No. 58140807. Eric Diaz**, (1612 Lewis Road, Montrose, PA 18801), new NPDES Permit for a bluestone quarry operation in New Milford Township, **Susquehanna County**, affecting 5.0 acres. Receiving stream: East Lake Creek to Salt Lick Creek, classified for the following uses: HQ—cold water and migratory fishes. Application received: October 22, 2014.

Non-discharge BMP's shall be in effect.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water

Quality Certification have been received by the Department. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the Commonwealth to certify that the involved projects will not violate the sections 301—303, 306 and 307 of the FWPCA (33



U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA, the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment shall submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before an application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on working days at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications Received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and Requests for Certification under section 401(a) of the FWPCA.**

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

*Southeast Region: Waterways and Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484-250-5900*

**E15-853. B&B Homes Inc.**, 110 N. Phoenixville Pike, Malvern, PA 19355, East Whiteland Township, **Chester County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the Linden Hall Project Residential Subdivision.

1. Fill in the wetland (PEM, POW) about 0.0685 acre for the construction of roadway, Parking and Townhouse units.

2. To construct and maintain a pedestrian bridge across Valley Creek (EV, MF) having an approximate waterway opening of 12 feet wide by 5-feet high and measuring approximately 4-feet in length.

3. To rehabilitate and maintain the 15-foot extension of existing 30-inch CMP pipe culvert located at the Lancaster Avenue.

The site is located at about 100 feet northeast of the intersection of Lancaster Avenue and Sproul Road (Malvern—PA USGS Quadrangle Latitude 40.038219; Longitude -75.559368).

*Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, Telephone 570-826-2511.*

**E13-181. Reading Blue Mountain and Northern Railroad**, 1 Railroad Boulevard, Port Clinton, PA 19549,

in Nesquehoning Borough and Jim Thorpe Borough, **Carbon County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a 28-foot wide, 431-foot long, 3-span steel girder railroad bridge spanning the Lehigh River (HQ-CWF, MF) consisting of two 50 ft<sup>2</sup> cast-in-place concrete support piers, two concrete abutments, and having a 32-foot under clearance. The purpose of the project is to provide a direct route for southbound rail traffic. The project is located adjacent to the confluence of Nesquehoning Creek and Lehigh River, approximately 1.2 miles northwest of the intersection of S.R. 903 and U.S. Route 209 (Nesquehoning, PA Quadrangle, Latitude: 40°52'28"; Longitude: -75°45'28").

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.*

**E07-454, Altoona Blair County Development Corporation**, Devorris Center, 3900 Industrial Park Drive, Altoona, PA 16602. Martin Marasco Business Park improvements in Greenfield Township, **Blair County**, Baltimore ACOE District.

The Applicant proposes to construct and maintain 1) a road crossing utilizing a 36-inch diameter culvert with rip rap and across a Palustrine Emergent (PEM) wetland permanently impacting 0.02 acre (Latitude: 40° 16' 14.3"N, Longitude: 78° 28' 28.3"W), 2) a road crossing utilizing a 30-inch diameter culvert with rip rap, with a sanitary sewer line crossing, in and across a PEM wetland permanently impacting 0.03 acre (Latitude: 40° 16' 22.3"N, Longitude: 78° 28' 20.0"W), 3) a road crossing utilizing three 15-inch diameter culverts with riprap, with sanitary sewer, water line and gas line crossings in and across an Exceptional Value (EV) PEM wetland permanently impacting 0.16 acre (Latitude: 40° 16' 26.4"N, Longitude: 78° 28' 16.7"W), 4) a road crossing utilizing six 15-inch diameter culverts with riprap with sanitary sewer, water line, and gas line crossings in a PEM wetland impacting 0.19 acre (Latitude: 40° 16' 27.7"N, Longitude: 78° 28' 16.0"W), 5) a sidewalk crossing utilizing a 36-inch diameter culvert with a R-5 rip rap apron in and across an EV PEM wetland permanently impacting 0.04 acre (Latitude: 40° 16' 25.3"N, Longitude: 78° 28' 12.7"W), 6) a stormwater pipe crossing below grade in and across a PEM wetland permanently impacting 0.01 acre (Latitude: 40° 16' 27"N, Longitude: 78° 28' 12.7"W), 7) a stormwater pipe crossing below grade in and across a PEM wetland permanently impacting 0.01 acre (Latitude: 40° 16' 26.7"N, Longitude: 78° 28' 9.1"W), 8) a road and pedestrian walkway crossing utilizing a 36-inch diameter culvert with a R-5 rip rap apron and water line and gas line crossings in and across an EV PEM wetland permanently impacting 0.05 acre (Latitude: 40° 16' 26.4"N, Longitude: 78° 28' 8.1"W), and 9) a stormwater pipe crossing below grade in and across an EV PEM wetland permanently impacting 0.01 acre (Latitude: 40° 16' 27.3, Longitude: 78° 28' 5.5") all for the purpose of continued business park development located between Sheetz Way and Cottonwood Road (Roaring Spring, PA Quadrangle, Latitude: 40° 16' 26"N, Longitude: -78° 28' 31") in Greenfield Township, Blair County.

**E36-933: Transcontinental Gas Pipe Line Company, LLC**, 2800 Post Oak Boulevard, Houston, Texas, 77056 in Drumore and Fulton Townships, **Lancaster County**, U.S. Army Corps of Engineers Baltimore District

To install and maintain the following:

<i>Description of Impact</i>	<i>Resource Name (Chapter 93 Designation)</i>	<i>Impact Dimensions (Length x Width) (Feet)</i>		<i>Permanent Impact Area (acres)</i>	<i>Temporary Impact Area (acres)</i>	<i>Latitude</i>	<i>Longitude</i>																																																																																																																				
20.0-inch steel natural gas utility line stream crossing	Unnamed tributary to Fishing Creek (EV, MF)	40 (Permanent)	3 (Permanent)	0.003	0.002	39° 48' 39"	-76° 14' 31"																																																																																																																				
		35 (Temporary)	3 (Temporary)					20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Fishing Creek	40 (Permanent)	125 (Permanent)	0.15	0.20	39° 48' 39"	-76° 14' 31"			74 (Temporary)	125 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Fishing Creek (EV, MF)	40 (Permanent)	25 (Permanent)	0.03	0.04	39° 48' 23"	-76° 14' 27"			63 (Temporary)	25 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of Fishing Creek	40 (Permanent)	107 (Permanent)	0.05	0.10	39° 48' 23"	-76° 14' 27"			55 (Temporary)	107 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Fishing Creek	0 (Permanent)	0 (Permanent)	0.00	0.01	39° 48' 22"	-76° 14' 24"			20 (Temporary)	18 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Unnamed tributary to Susquehanna River (HQ-CWF, MF)	40 (Permanent)	5 (Permanent)	0.01	0.01	39° 47' 02"	-76° 14' 11"			58 (Temporary)	5 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	40 (Permanent)	48 (Permanent)	0.05	0.10	39° 47' 02"	-76° 14' 11"			55 (Temporary)	48 (Temporary)	20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	10 (Permanent)	53 (Permanent)	0.01	0.11	39° 47' 02"	-76° 14' 11"			85 (Temporary)	53 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 47' 01"	-76° 14' 10"			26 (Temporary)	77 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.04	39° 47' 01"	-76° 14' 10"			20 (Temporary)	79 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"
20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Fishing Creek	40 (Permanent)	125 (Permanent)	0.15	0.20	39° 48' 39"	-76° 14' 31"																																																																																																																				
		74 (Temporary)	125 (Temporary)					20.0-inch steel natural gas utility line stream crossing	Fishing Creek (EV, MF)	40 (Permanent)	25 (Permanent)	0.03	0.04	39° 48' 23"	-76° 14' 27"			63 (Temporary)	25 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of Fishing Creek	40 (Permanent)	107 (Permanent)	0.05	0.10	39° 48' 23"	-76° 14' 27"			55 (Temporary)	107 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Fishing Creek	0 (Permanent)	0 (Permanent)	0.00	0.01	39° 48' 22"	-76° 14' 24"			20 (Temporary)	18 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Unnamed tributary to Susquehanna River (HQ-CWF, MF)	40 (Permanent)	5 (Permanent)	0.01	0.01	39° 47' 02"	-76° 14' 11"			58 (Temporary)	5 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	40 (Permanent)	48 (Permanent)	0.05	0.10	39° 47' 02"	-76° 14' 11"			55 (Temporary)	48 (Temporary)	20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	10 (Permanent)	53 (Permanent)	0.01	0.11	39° 47' 02"	-76° 14' 11"			85 (Temporary)	53 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 47' 01"	-76° 14' 10"			26 (Temporary)	77 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.04	39° 47' 01"	-76° 14' 10"			20 (Temporary)	79 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"			56 (Temporary)	30 (Temporary)								
20.0-inch steel natural gas utility line stream crossing	Fishing Creek (EV, MF)	40 (Permanent)	25 (Permanent)	0.03	0.04	39° 48' 23"	-76° 14' 27"																																																																																																																				
		63 (Temporary)	25 (Temporary)					20.0-inch steel natural gas utility line floodway crossing	Floodway of Fishing Creek	40 (Permanent)	107 (Permanent)	0.05	0.10	39° 48' 23"	-76° 14' 27"			55 (Temporary)	107 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Fishing Creek	0 (Permanent)	0 (Permanent)	0.00	0.01	39° 48' 22"	-76° 14' 24"			20 (Temporary)	18 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Unnamed tributary to Susquehanna River (HQ-CWF, MF)	40 (Permanent)	5 (Permanent)	0.01	0.01	39° 47' 02"	-76° 14' 11"			58 (Temporary)	5 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	40 (Permanent)	48 (Permanent)	0.05	0.10	39° 47' 02"	-76° 14' 11"			55 (Temporary)	48 (Temporary)	20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	10 (Permanent)	53 (Permanent)	0.01	0.11	39° 47' 02"	-76° 14' 11"			85 (Temporary)	53 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 47' 01"	-76° 14' 10"			26 (Temporary)	77 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.04	39° 47' 01"	-76° 14' 10"			20 (Temporary)	79 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"			56 (Temporary)	30 (Temporary)																				
20.0-inch steel natural gas utility line floodway crossing	Floodway of Fishing Creek	40 (Permanent)	107 (Permanent)	0.05	0.10	39° 48' 23"	-76° 14' 27"																																																																																																																				
		55 (Temporary)	107 (Temporary)					Temporary access road floodway crossing	Floodway of unnamed tributary to Fishing Creek	0 (Permanent)	0 (Permanent)	0.00	0.01	39° 48' 22"	-76° 14' 24"			20 (Temporary)	18 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Unnamed tributary to Susquehanna River (HQ-CWF, MF)	40 (Permanent)	5 (Permanent)	0.01	0.01	39° 47' 02"	-76° 14' 11"			58 (Temporary)	5 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	40 (Permanent)	48 (Permanent)	0.05	0.10	39° 47' 02"	-76° 14' 11"			55 (Temporary)	48 (Temporary)	20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	10 (Permanent)	53 (Permanent)	0.01	0.11	39° 47' 02"	-76° 14' 11"			85 (Temporary)	53 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 47' 01"	-76° 14' 10"			26 (Temporary)	77 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.04	39° 47' 01"	-76° 14' 10"			20 (Temporary)	79 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"			56 (Temporary)	30 (Temporary)																																
Temporary access road floodway crossing	Floodway of unnamed tributary to Fishing Creek	0 (Permanent)	0 (Permanent)	0.00	0.01	39° 48' 22"	-76° 14' 24"																																																																																																																				
		20 (Temporary)	18 (Temporary)					20.0-inch steel natural gas utility line stream crossing	Unnamed tributary to Susquehanna River (HQ-CWF, MF)	40 (Permanent)	5 (Permanent)	0.01	0.01	39° 47' 02"	-76° 14' 11"			58 (Temporary)	5 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	40 (Permanent)	48 (Permanent)	0.05	0.10	39° 47' 02"	-76° 14' 11"			55 (Temporary)	48 (Temporary)	20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	10 (Permanent)	53 (Permanent)	0.01	0.11	39° 47' 02"	-76° 14' 11"			85 (Temporary)	53 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 47' 01"	-76° 14' 10"			26 (Temporary)	77 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.04	39° 47' 01"	-76° 14' 10"			20 (Temporary)	79 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"			56 (Temporary)	30 (Temporary)																																												
20.0-inch steel natural gas utility line stream crossing	Unnamed tributary to Susquehanna River (HQ-CWF, MF)	40 (Permanent)	5 (Permanent)	0.01	0.01	39° 47' 02"	-76° 14' 11"																																																																																																																				
		58 (Temporary)	5 (Temporary)					20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	40 (Permanent)	48 (Permanent)	0.05	0.10	39° 47' 02"	-76° 14' 11"			55 (Temporary)	48 (Temporary)	20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	10 (Permanent)	53 (Permanent)	0.01	0.11	39° 47' 02"	-76° 14' 11"			85 (Temporary)	53 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 47' 01"	-76° 14' 10"			26 (Temporary)	77 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.04	39° 47' 01"	-76° 14' 10"			20 (Temporary)	79 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"			56 (Temporary)	30 (Temporary)																																																								
20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	40 (Permanent)	48 (Permanent)	0.05	0.10	39° 47' 02"	-76° 14' 11"																																																																																																																				
		55 (Temporary)	48 (Temporary)					20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	10 (Permanent)	53 (Permanent)	0.01	0.11	39° 47' 02"	-76° 14' 11"			85 (Temporary)	53 (Temporary)	20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 47' 01"	-76° 14' 10"			26 (Temporary)	77 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.04	39° 47' 01"	-76° 14' 10"			20 (Temporary)	79 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"			56 (Temporary)	30 (Temporary)																																																																				
20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	10 (Permanent)	53 (Permanent)	0.01	0.11	39° 47' 02"	-76° 14' 11"																																																																																																																				
		85 (Temporary)	53 (Temporary)					20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 47' 01"	-76° 14' 10"			26 (Temporary)	77 (Temporary)	Temporary access road floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.04	39° 47' 01"	-76° 14' 10"			20 (Temporary)	79 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"			56 (Temporary)	30 (Temporary)																																																																																
20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 47' 01"	-76° 14' 10"																																																																																																																				
		26 (Temporary)	77 (Temporary)					Temporary access road floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.04	39° 47' 01"	-76° 14' 10"			20 (Temporary)	79 (Temporary)	20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"			56 (Temporary)	30 (Temporary)																																																																																												
Temporary access road floodway crossing	Floodway of unnamed tributary to Susquehanna River	0 (Permanent)	0 (Permanent)	0.00	0.04	39° 47' 01"	-76° 14' 10"																																																																																																																				
		20 (Temporary)	79 (Temporary)					20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"			56 (Temporary)	30 (Temporary)																																																																																																								
20.0-inch steel natural gas utility line stream crossing	Peters Creek (HQ-WWF, MF)	40 (Permanent)	30 (Permanent)	0.03	0.04	39° 46' 11"	-76° 12' 54"																																																																																																																				
		56 (Temporary)	30 (Temporary)																																																																																																																								

<i>Description of Impact</i>	<i>Resource Name (Chapter 93 Designation)</i>	<i>Impact Dimensions (Length x Width) (Feet)</i>		<i>Permanent Impact Area (acres)</i>	<i>Temporary Impact Area (acres)</i>	<i>Latitude</i>	<i>Longitude</i>
20.0-inch steel natural gas utility line floodway crossing	Floodway of Peters Creek	40 (Permanent)	100 (Permanent)	0.08	0.14	39° 46' 11"	-76° 12' 54"
		55 (Temporary)	100 (Temporary)				
20.0-inch steel natural gas utility line stream crossing	Puddle Duck Creek (HQ-WWF, MF)	40 (Permanent)	15 (Permanent)	0.01	0.03	39° 45' 27"	-76° 12' 27"
		66 (Temporary)	15 (Temporary)				
20.0-inch steel natural gas utility line floodway crossing	Floodway of Puddle Duck Creek	40 (Permanent)	108 (Permanent)	0.09	0.20	39° 45' 27"	-76° 12' 27"
		55 (Temporary)	108 (Temporary)				
20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	10 (Permanent)	4 (Permanent)	0.001	0.02	39° 45' 26"	-76° 12' 27"
		122 (Temporary)	4 (Temporary)				
20.0-inch steel natural gas utility line stream crossing	Unnamed tributary to Puddle Duck Creek (HQ-WWF, MF)	40 (Permanent)	4 (Permanent)	0.004	0.01	39° 44' 48"	-76° 12' 11"
		101 (Temporary)	4 (Temporary)				
20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Puddle Duck Creek	40 (Permanent)	114 (Permanent)	0.09	0.23	39° 44' 48"	-76° 12' 11"
		55 (Temporary)	114 (Temporary)				
Temporary access road floodway crossing	Floodway of unnamed tributary to Conowingo Creek	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 43' 55"	-76° 11' 33"
		20 (Temporary)	107 (Temporary)				
20.0-inch steel natural gas utility line stream crossing	Unnamed tributary to Conowingo Creek (HQ-CWF, MF)	40 (Permanent)	3 (Permanent)	0.002	0.01	39° 43' 47"	-76° 11' 46"
		106 (Temporary)	3 (Temporary)				
20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Conowingo Creek	40 (Permanent)	185 (Permanent)	0.15	0.15	39° 43' 47"	-76° 11' 46"
		55 (Temporary)	185 (Temporary)				
20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	0 (Permanent)	0 (Permanent)	0.00	0.07	39° 43' 46"	-76° 11' 46"
		27 (Temporary)	49 (Temporary)				
20.0-inch steel natural gas utility line wetland crossing	PFO wetland (EV)	0 (Permanent)	0 (Permanent)	0.00	0.02	39° 43' 29"	-76° 11' 29"
		36 (Temporary)	18 (Temporary)				

<i>Description of Impact</i>	<i>Resource Name (Chapter 93 Designation)</i>	<i>Impact Dimensions (Length x Width) (Feet)</i>		<i>Permanent Impact Area (acres)</i>	<i>Temporary Impact Area (acres)</i>	<i>Latitude</i>	<i>Longitude</i>
20.0-inch steel natural gas utility line stream crossing	Unnamed tributary to Conowingo Creek (HQ-CWF, MF)	40 (Permanent)	3 (Permanent)	0.01	0.01	39° 43' 29"	-76° 11' 28"
		80 (Temporary)	3 (Temporary)				
20.0-inch steel natural gas utility line floodway crossing	Floodway of unnamed tributary to Conowingo Creek	40 (Permanent)	126 (Permanent)	0.12	0.18	39° 43' 29"	-76° 11' 28"
		55 (Temporary)	126 (Temporary)				
Temporary access road stream crossing	Unnamed tributary to Conowingo Creek (HQ-CWF, MF)	0 (Permanent)	0 (Permanent)	0.00	0.002	39° 43' 29"	-76° 11' 28"
		20 (Temporary)	3 (Temporary)				
Temporary access road floodway crossing	Floodway of unnamed tributary to Conowingo Creek	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 43' 29"	-76° 11' 28"
		20 (Temporary)	112 (Temporary)				
Temporary access road wetland crossing	PEM wetland (EV)	0 (Permanent)	0 (Permanent)	0.00	0.0005	39° 43' 26"	-76° 11' 11"
		4 (Temporary)	5 (Temporary)				
Temporary access road wetland crossing	PEM wetland (EV)	0 (Permanent)	0 (Permanent)	0.00	0.03	39° 43' 32"	76° 11' 10"
		20 (Temporary)	56 (Temporary)				
Temporary access road wetland crossing	PEM wetland (EV)	0 (Permanent)	0 (Permanent)	0.00	0.01	39° 43' 33"	76° 11' 10"
		20 (Temporary)	21 (Temporary)				
Temporary access road wetland crossing	PEM wetland (EV)	0 (Permanent)	0 (Permanent)	0.00	0.01	39° 43' 34"	76° 11' 10"
		20 (Temporary)	30 (Temporary)				
Temporary access road floodway crossing	Floodway of Conowingo Creek	0 (Permanent)	0 (Permanent)	0.00	0.05	39° 43' 31"	76° 11' 10"
		20 (Temporary)	114 (Temporary)				
20.0-inch steel natural gas utility line wetland crossing	PFO wetland (EV)	30 (Permanent)	268 (Permanent)	0.19	0.76	39° 43' 19"	76° 10' 58"
		30 (Temporary)	129 (Temporary)				
20.0-inch steel natural gas utility line wetland crossing	PSS wetland (EV)	0 (Permanent)	0 (Permanent)	0.00	0.55	39° 43' 17"	76° 10' 58"
		133 (Temporary)	147 (Temporary)				
20.0-inch steel natural gas utility line stream crossing	Conowingo Creek (CWF, MF)	40 (Permanent)	49 (Permanent)	0.04	0.64	39° 43' 18"	76° 10' 55"
		649 (Temporary)	49 (Temporary)				

Description of Impact	Resource Name (Chapter 93 Designation)	Impact Dimensions (Length x Width) (Feet)		Permanent Impact Area (acres)	Temporary Impact Area (acres)	Latitude	Longitude
20.0-inch steel natural gas utility line floodway crossing	Floodway of Conowingo Creek	40 (Permanent)	116 (Permanent)	0.44	1.11	39° 43' 18"	76° 10' 55"
		649	116				
20.0-inch steel natural gas utility line wetland crossing	PEM wetland (EV)	0 (Permanent)	0 (Permanent)	0.00	0.08	39° 43' 16"	76° 10' 56"
		92	31				
20.0-inch steel natural gas utility line wetland crossing	PFO wetland (EV)	30 (Permanent)	100 (Permanent)	0.06	0.32	39° 43' 17"	76° 10' 54"
		104	100				
Temporary access road wetland crossing	PEM wetland (EV)	0 (Permanent)	0 (Permanent)	0.00	0.01	39° 43' 16"	76° 10' 56"
		20	20				

The purpose of the project is to provide natural gas services for a proposed upgrade to the existing Wildcat Point electric generating facility located in Cecil County, Maryland. The project proposes to permanently impact 418.41 linear feet of stream channel, 1.26 acre of floodway, and 0.26 acres of wetlands. Although 0.26 acre of wetlands will be impacted through maintenance of the right-of-way, no wetland acreage loss is anticipated, and onsite replacement is not required. Peters Creek, Puddle Duck Creek and their unnamed tributaries contain naturally reproducing wild brown trout populations, and instream construction time-of-year restrictions will be implemented to avoid impacts to trout spawning.

**E21-443: Michael & Dianna Gayman** of 480 McCullough Road, Shippensburg, Project on property at Baltimore Road in Southampton Township, **Cumberland County, U.S. Army Corps of Engineers Baltimore District**

To construct and maintain a single span bridge with a 27.0 foot span, 10.0 foot width and an average underclearance of 3.9 feet over Burd Run (CWF/MF) in Southampton Township, Cumberland County (Latitude: 40° 00' 30"; Longitude: -77° 27' 45") for the purpose of accessing the full acreage of property owned. The project is located approximately 700 feet northwest of the intersection of Shippensburg Road and Milesburg Road.

*Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636*

**E14-558. Patton Township**, 100 Patton Plaza, State College, PA 18803-2304. Waddle Road Improvements, in Patton Township, **Centre County**, ACOE Baltimore District (Julian, PA Quadrangle N: 40° 49' 12.55"; W: -77° 54' 04.30").

To construct and maintain a 8-foot by 5-foot by 78-foot long reinforced concrete culvert extension at a 30-degree skew to the existing 8-foot by 5-foot by 150-foot 3-inch long reinforced concrete culvert to accommodate road widening on Waddle Road located between Toftrees Avenue and I-99. This applicant proposes to: 1) temporarily impact 50 linear feet of the unnamed tributary to Spring Creek, 2) permanently impact 200 linear feet of the

unnamed tributary to Spring Creek, which are classified as High Quality—Cold Water Fishery.

*Southwest Region: Waterways & Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

**E02-1702. Wal-Mart Stores East, LP**, 2001 SE 10th Street, Mail Stop #5570, Bentonville, AR 72716; Moon Township, **Allegheny County**; ACOE Pittsburgh District

The applicant is proposing to do the following:

1. Permanently impact 0.305 acre of wetlands through grading and placement of fill;
2. Construct and maintain eighteen (18) temporary road crossings and three (3) utility line crossings in accordance with General Permits 5 and 8 that, cumulatively, will temporarily impact 0.095 acre, permanently impact 0.107 acre of wetlands, temporarily impact 447 LF, and permanently impact 402 LF of unnamed tributaries to Flaugherty Run (WWF), and temporarily impact 1.14 acres and permanently impact 1.19 acres of floodway of the same tributaries;

for the purposes of developing a new Wal-Mart facility. As compensation for the proposed impacts, the applicant is proposing to create a 0.31 acre PEM wetland on-site. The project is located west of the intersection of University Blvd. and Brodhead Rd. (Ambridge, PA USGS topographic quadrangle map, Latitude: 40°31'1.2"; Longitude: -80°13'39.8"), in Moon Township, Allegheny County.

*District Oil & Gas Operations: Eastern Oil & Gas District, 208 West Third Street, Suite 101, Williamsport, PA 17701*

**E5829-092: UGI Energy Services, Inc.**, 1 Meridian Blvd., Suite 2C01, Wyomissing, PA 19610, Auburn Township, **Susquehanna County**, ACOE Baltimore District.

To construct, operate and maintain the Auburn Line Loop Project, which consists of one 24-inch natural gas pipeline, with the following impacts:

1. 27,215 square feet of temporary impacts to Palustrine Scrub Shrub (PSS) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°38'39.49", Longitude: W76°02'10.02");

2. 7,641 square feet of permanent impacts to Palustrine Forested (PFO) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°38'45.84", Longitude: W76°02'17.43");

3. 125.0 linear feet of a UNT to Little Meshoppen Creek (CWF, MF) via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°38'47.39", Longitude: W76°02'19.23");

4. 3,262 square feet of permanent impacts to Palustrine Forested (PFO) Wetlands and 36,816 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°38'48.62", Longitude: W76°02'20.85");

5. 21,239 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°38'54.63", Longitude: W76°02'25.73");

6. 51.0 linear feet of a UNT to Little Meshoppen Creek (CWF, MF) and 128 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°39'36.57", Longitude: W76°02'19.02");

7. 8,564 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°39'36.77", Longitude: W76°02'12.70");

8. 1,102 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°39'36.84", Longitude: W76°02'09.24");

9. 15,777 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°40'14.96", Longitude: W76°02'11.55");

10. 2,389 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°40'18.94", Longitude: W76°02'11.72");

11. 28,170 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°40'24.76", Longitude: W76°02'13.14");

12. 19,830 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°40'30.75", Longitude: W76°02'10.56");

13. 8,877 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°40'52.45", Longitude: W76°02'26.93");

14. 7,890 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°40'55.02", Longitude: W76°02'27.56");

15. 7,584 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut

trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°41'13.98", Longitude: W76°02'33.48");

16. 6,894 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°42'01.25", Longitude: W76°02'13.05");

17. 40,818 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°42'05.28", Longitude: W76°02'11.86"); and

18. 422.0 linear feet of a UNT to Nick Creek (CWF, MF) via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°42'06.84", Longitude: W76°02'11.38").

The project will result in 598.0 linear feet of temporary stream impacts, 206,078 square feet (4.73 acres) of temporary PEM wetland impacts, 27,215 square feet (0.62 acre) of temporary PSS wetland impacts, and 10,903 square feet (0.25 acre) of permanent PFO wetland impacts, all for the purpose of installing a natural gas pipeline and associated access roadways for Marcellus shale development.

**E6629-023: UGI Energy Services, Inc.**, 1 Meridian Blvd., Suite 2C01, Wyomissing, PA 19610, Washington Township Meshoppen Township, and Meshoppen Borough, **Wyoming County**, ACOE Baltimore District.

To construct, operate and maintain the Auburn Line Loop Project, which consists of one 24-inch natural gas pipeline, with the following impacts:

1. 67.0 linear feet of a UNT to Susquehanna River (CWF, MF) via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°34'50.96", Longitude: W76°02'29.56");

2. 54.0 linear feet of a UNT to Susquehanna River (CWF, MF) via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°34'51.07", Longitude: W76°02'30.46");

3. 98.0 linear feet of a UNT to Susquehanna River (CWF, MF) via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°35'01.98", Longitude: W76°02'33.35");

4. 1,012 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°35'06.10", Longitude: W76°02'32.31");

5. 4,527 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°35'27.94", Longitude: W76°02'31.97");

6. 1,244 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°35'30.68", Longitude: W76°02'32.72");

7. 2,638 square feet of permanent impacts to Palustrine Forested (PFO) Wetlands, 11,132 square feet of temporary impacts to Palustrine Scrub Shrub (PSS) Wetlands, and 17,116 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°35'35.10", Longitude: W76°02'33.72");

8. 274 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a

temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°35'40.47", Longitude: W76°02'32.15");

9. 7,759 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°35'53.43", Longitude: W76°02'30.18");

10. 907 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°36'03.25", Longitude: W76°02'28.89");

11. 59.0 linear feet of a UNT to Susquehanna River (CWF, MF) and 7,404 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°36'14.60", Longitude: W76°02'25.92");

12. 81.0 linear feet of Meshoppen Creek (CWF, MF) via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°36'56.44", Longitude: W76°02'16.71");

13. 104.0 linear feet of a UNT to Meshoppen Creek (CWF, MF) via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°37'01.54", Longitude: W76°02'15.82");

14. 583 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°37'07.83", Longitude: W76°02'14.78");

15. 60.0 linear feet of a UNT to Meshoppen Creek (CWF, MF) via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°37'10.15", Longitude: W76°02'14.47");

16. 154.0 linear feet of a UNT to Meshoppen Creek (CWF, MF) via open cut trenching and a temporary road

crossing (Meshoppen, PA Quadrangle, Latitude: N41°37'18.97", Longitude: W76°02'08.51");

17. 194.0 linear feet of a UNT to Meshoppen Creek (CWF, MF) via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°37'23.90", Longitude: W76°02'05.36");

18. 187.0 linear feet of a UNT to Meshoppen Creek (CWF, MF) via open cut trenching and a temporary road crossing (Meshoppen, PA Quadrangle, Latitude: N41°37'29.79", Longitude: W76°02'06.66");

19. 1,233 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°37'38.97", Longitude: W76°02'04.32");

20. 1,441 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°38'35.94", Longitude: W76°02'06.17"); and

21. 1,430 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands via open cut trenching and a temporary road crossing (Auburn Center, PA Quadrangle, Latitude: N41°38'38.21", Longitude: W76°02'08.84").

The project will result in 1058.0 linear feet of temporary stream impacts, 2,638 square feet (0.06 acre) of permanent impacts to PFO wetlands, 11,132 square feet (0.26 acre) of temporary impacts to PSS wetlands, and 44,930 square feet (1.03 acre) of temporary PEM wetland impacts all for the purpose of installing a natural gas pipeline and associated access roadways for Marcellus shale development.

## ACTIONS

### THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### FINAL ACTIONS TAKEN FOR NPDES PERMITS AND WQM PERMITS

The Department has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and NOIs for coverage under General Permits. This notice of final action is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.101) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Wastes; Discharges to Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

Sections I—VI contain actions regarding industrial, animal or sewage wastes discharges, discharges to groundwater, and discharges associated with MS4, stormwater associated with construction activities and CAFOs. Section VII contains notices for parties who have submitted NOIs for Coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions in each General Permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions in the respective permit. The permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to

Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

## I. NPDES Renewal Permit Actions

*Northcentral Regional Office: Clean Water Program Manager, 208 W Third Street Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.0530.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0007854 (Industrial)	Milton Filter Plant 702 S Front Street Milton, PA 17847	Northumberland County Milton Borough	West Branch Susquehanna River (10-D)	Y
PA0114553 (Sewage)	Millheim Borough Council Sewer System STP 645 Tattletown Road Coburn, PA 16832	Centre County Penn Township	Elk Creek (6-A)	Y
PA0024341 (Sewage)	Canton Borough Authority Sewer System 290 Montague Street Canton, PA 17724	Bradford County Canton Borough	Towanda Creek (4-C)	Y
PA0209724 (Sewage)	Lake Glory Campgrounds 96 Eisenhower Road Catawissa, PA 17820-8624	Columbia County Cleveland Township	Roaring Creek (5-E)	Y

*Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0222313 (Sewage)	Gene P Kidder SFTF PO Box 106 Sigel, PA 15860	Jefferson County Barnett Township	Unnamed Tributary to Cathers Run (17-B)	Y
PA0239356 (Sewage)	Robert C. Montgomery SFTF 1042 Enterprise Road, Grove City, PA 16127	Mercer County Pine Township	Unnamed Tributary to the Swamp Run (20-C)	Y

## II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5970*

**NPDES Permit No. PA0052221**, Industrial, **Exelon Generation Company, LLC**, Limerick Generation Station, 3146 Sanatoga Road, SSB 2-1, Pottstown, PA 19464.

This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge treated industrial waste from a facility known as Exelon Bradshaw Reservoir IWWTP to East Branch Perkiomen Creek in Watershed 3E—Perkiomen.

**NPDES Permit No. PA0244686**, Sewage, **Roxanne M. Riley**, 1021 Copeland School Road, West Chester, PA 19380-1829.

This proposed facility is located in Bradford Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the Transfer of ownership of an NPDES permit to discharge treated sewage from a facility known as Riley SRSTP to Broad Run in Watershed 3-H.

**NPDES Permit No. PA0058785**, Sewage, **Mr. Gregory A. & Mrs. Marian B. Gans**, 196 Springton Road, Glenmoore, PA 19343-1162.

This proposed facility is located in Brandywine Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge treated sewage from a facility known as Gans SRSTP to Culbertson Run in Watershed 3-H.



**NPDES Permit No. PA0244350**, Sewage, **James Alpha**, 1650 Fels Road, Pennsburg, PA 18073.

This proposed facility is located in Milford Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge treated sewage from a facility known as Alpha SRSTP to Hazelbach Creek in Watershed 3-E.

**NPDES Permit No. PA0051756**, Sewage, **State Farm Mutual Automobile Insurance Company**, One State Farm Drive, Concordville, PA 19331.

This proposed facility is located in Concord Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge treated sewage from a facility known as State Farm Automobile Insurance Company STP to Unnamed Tributary to West Branch of Chester Creek in Watershed 3-G.

**NPDES Permit No. PA0057827**, Sewage, **Robert P. Lopez**, 508 Conestoga Road, Malvern, PA 19355.

This proposed facility is located in West Brandywine Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal and transfer of an NPDES permit to discharge treated sewage from a facility known as Lopez SRSTP to Indian Run in Watershed 3-H.

**NPDES Permit No. PA0020290**, Sewage, **Quakertown Borough**, 35 North Third Street, Quakertown, PA 18951-1376.

This proposed facility is located in Quakertown Borough, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge treated sewage from a facility known as Quakertown Borough STP to Tohickon Creek in Watershed 2-D.

**NPDES Permit No. PA0244473**, Storm Water, **Delaware Valley Concrete Co. Inc.**, 248 E. County Line Road, Hatboro, PA 19040-2116.

This proposed facility is located in Kennett Square Borough, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge Stormwater run-off from a facility known as Delaware Valley Concrete Kennett Square Facility to Unnamed Tributary of East Branch Red Clay Creek in Watershed 3-I.

*Northcentral Regional Office: Regional Clean Water Program Manager, 208 W Third Street Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.0530.*

**NPDES Permit No. PA0232599**, Industrial, SIC Code 4941, **United Water PA, Inc.**, 4211 East Park Circle, Harrisburg, PA 17111.

This proposed facility is located in the Town of Bloomsburg, **Columbia County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated industrial wastewater.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481*

**NPDES Permit No. PA0272825**, Industrial Waste, SIC Code 9511, **Slippery Rock Municipal Authority**, 116 Crestview Road, Slippery Rock, PA 16057. Facility Name: Slippery Rock Borough WTP.

This proposed facility is located in Slippery Rock Township, **Butler County**.

Description of Proposed Activity: A new NPDES permit for an existing discharge of industrial wastewater associated with the production of drinking water.

**NPDES Permit No. PA0002666**, SIC Code 2999, **Sonneborn Inc.**, 100 Sonneborn Lane, Petrolia, PA 16050.

This existing facility is located in Fairview Township, **Butler County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated industrial waste, treated stormwater, and untreated stormwater from a producer of surface active agents. Total aluminum and total iron concentration limits were added to the final issued permit.

### III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401, 484.250.5900*

**WQM Permit No. 0904410**, Sewage, Transfer, **James Dawson**, 1079 Old Bethlehem Road, Quakertown, PA 18951.

This proposed facility is located in Haycock Township, **Bucks County**.

Description of Action/Activity: Permit transferred from Tom Gibson to James Dawson.

*Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.*

**WQM Permit No. WQG02361402**, Sewerage, **Suburban Lancaster Sewer Authority**, PO Box 458, Lancaster, PA 17608.

This proposed facility is located in Pequea & West Lampeter Townships, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of the Willow Grove Sewer Extension and Pump Station.

*Northcentral Regional Office: Regional Clean Water Program Manager, 208 W Third Street Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.0530.*

**WQM Permit No. 1914201**, Industrial Waste, SIC Code 4941, **United Water PA, Inc.**, 4211 East Park Circle, Harrisburg, PA 17111.

This proposed facility is located in Town of Bloomsburg, **Columbia County**.

Description of Proposed Action/Activity: Construction and operation of a new water treatment plant.

*Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.*

**WQM Permit No. 0214403**, Sewage, SIC Code 4952, **Pittsburgh Parks Conservancy**, 2000 Technology Drive, Suite 300, Pittsburgh, PA 15219.

This proposed facility is located in City of Pittsburgh, **Allegheny County**.

Description of Proposed Action/Activity: Construction of a sewage treatment plant and drip irrigation field to dispose of sewage generated by the environmental education center at Frick Park.

**WQM Permit No. 0290208 A-1**, Industrial Waste, SIC Code 4111, **Allegheny County Port Authority**, 345 Sixth Avenue, 3rd Floor, Pittsburgh, PA 15222-2527.

This existing facility is located in Collier Township, **Allegheny County**.

Description of Proposed Action/Activity: Approve the installation and operation of a VORTECHS Model 11000 grit removal treatment unit.

**WQM Permit No. 0293201 A-1**, Industrial Waste, SIC Code 4111, **Allegheny County Port Authority**, 345 Sixth Avenue, 3rd Floor, Pittsburgh, PA 15222-2527.

This existing facility is located in West Mifflin Borough, **Allegheny County**.

Description of Proposed Action/Activity: Application for the installation of a grit removal system for the treatment of stormwater associated with industrial activity at Outfall 002.

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#### **VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025214002	Dingmans Ferry DG, LLC 361 Summit Blvd., Suite 110 Birmingham, AL 35243	Pike	Delaware Township	Adams Creek (EV, MF), Dingmans Creek (HQ-CWF, MF)
PAI025208008(1)	Raymondskill Properties, LLC 1875 Century Park East, Suite 1980 Los Angeles, CA 90067	Pike	Dingman Township	Raymondskill Creek (HQ-CWF, MF)
PAI024814006	Wagner Enterprises, LTD. P. O. Box 3154 Easton, PA 18043	Northampton	City of Bethlehem	Saucon Creek (HQ-CWF, MF)
PAI024510012(1)	CB H20 1 Camelback Road Tannersville, PA 18372	Monroe	Pocono Township	Pocono Creek (HQ-CWF, MF)
PAI024513001(3)	Kalahari Resorts, LLC 1305 Kalahari Drive, P.O. Box 590 Wisconsin Dells, WI 53965	Monroe	Tobyhanna Township, Pocono Township	Swiftwater Creek (EV) Unnamed Tributaries to Swiftwater Creek (EV)
	Pocono Manor Investors, PT-L1 P.O. Box 38 2 Oak Lane Pocono Manor, PA 18349			Indian Run (EV)  Unnamed Tributaries to Indian Run (EV)
PAI025413002	RGC Development, LP 6866 Christophalt Drive Bath, PA 18014	Schuylkill	Tamaqua Borough	Owl Creek (HQ-CWF, MF)
PAI023910005(2)	Cumberland Gardens/Housing Partnership One Brewery Park 1301 North 31st Street Philadelphia, PA 19121-4495	Lehigh	City of Allentown	Little Lehigh Creek (HQ-CWF, MF)

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023914008	Wedgewood Land, LP c/o Mr. David Biddison 201 King of Prussia Road, Suite 370 Radnor, PA 19087	Lehigh	Upper Saucon Township	Unnamed Tributary to Saucon Creek (CWF, MF), EV Wetlands

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Nathan Crawford, Section Chief, Telephone 717.705.4802.*

<i>Permit #</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030614005 Issued	Lynette Gelsinger 102 Heidelberg Road Wernersville, PA 19565	Berks	Heidelberg Township	Spring Creek (CWF/MF) EV Wetlands
PAI036713002 Denied	Pritz Auto Body 1243 Roosevelt Avenue York, PA 17404	York	Springfield and Shrewsbury Townships	Seaks Run (HQ/CWF)

*Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570.327.3574*

*Clinton County Conservation District: 45 Cooperation Lane, Mill Hall, PA 17751, (570) 726-3798*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041814007	Fox Hollow Construction LLC 46 Speed Ln Mill Hall, PA 17751	Clinton	Porter Township	Fishing Creek HQ-CWF Cedar Run HQ-CWF
PAI041814009	J C Bar Properties Jason Mitchell 415 Fallowfield Rd Camp Hill, PA 17011	Clinton	City of Lock Haven	Bald Eagle Creek CWF

*Lycoming County Conservation District: 542 County Farm Road Suite 202, Montoursville, PA 17754, (570) 433-3003*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044114002	Edward Dunlap UGI Penn Natural Gas 1 UGI Center Wilkes-Barre, PA 18711	Lycoming	Mifflin, Piatt & Porter Townships	Canoe Run EV Nichols Run HQ-CWF, MF Nice Hollow WWF Stewards Run WWF WB Susquehanna River WWF

## **VII. Approvals to Use NPDES and/or Other General Permits**

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

### **List of NPDES and/or Other General Permit Types**

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage

PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)
PAG-14	(To Be Announced)
PAG-15	General Permit for Discharges From the Application of Pesticides

*General Permit Type—PAG-02*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Upper Makefield Township Bucks County	PAG0200 0913062(1)	Zaveta Construction Company, Inc. 4030 Skyron Drive Doylestown, PA 18902	Pidcock Creek WWF—MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Quakertown Borough Bucks County	PAG0200 0913008	Quakertown Community School District 600 Park Avenue Quakertown, PA 18951	Beaver Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Newtown Township Bucks County	PAG0200 0914048	Gerbar, LLC 4829 E. Street Road Trevoise, PA 19053	Core Creek CWF—MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Falls Township Bucks County	PAG0200 0910029R	Waste Management of Pennsylvania, Inc. 1000 New Ford Mill Road Morrisville, PA 19067	Delaware River WWF—MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Southampton Township Bucks County	PAG0200 0910066R(1)	County Builders, Inc. 76 Griffith Miles Circle Warminster, PA 18974	Poquessing Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Tinicum Township Delaware County	PAG0200 2314035	Tinicum Township 629 N. Governor Printz Boulevard Essington, PA 19029	Delaware Estuary WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Providence Township Montgomery County	PAG0200 4614070	North Grange, LLC 3481 Germantown Pike Collegeville, PA 19426	Unnamed Tributary to Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Whitpain Township Montgomery County	PAG0200 4612009R	OHB Homes, Inc. 3333 Street Road Bensalem, PA 19020	Tributary to Stoney Creek TSF—MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 511438	Mr. Samuel Blake 10 East Springfield Avenue Philadelphia, PA 19118	Wissahickon River TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 511401	Temple University Health System 3401 North Broad Street Philadelphia, PA 19140	Delaware River WWF—MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Pittston Township & Pittston City Luzerne County	PAG02004014019	Stauffer Pointe, LLC 400 Third Avenue Suite 117 Kingston, PA 18704	Susquehanna River (WWF, MF)	Luzerne Conservation District 570-674-7991

*Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Upper Nazareth Township & Nazareth Borough Northampton County	PAG0200481104R(1)	Susan Drabic Morningstar Senior Living, Inc. 175 West North Street Nazareth, PA 18064	UNT to the Shoeneck Creek (WWF, MF)	Northampton County Conservation District 610-746-1971
Williams Township Northampton County	PAG02004814016	Kenneth Sun Jean Ardo-Sun 15 Mountain Lane Easton, PA 18042	Delaware River (WWF, MF)	Northampton County Conservation District 610-746-1971
Gordon Borough & Butler Township Schuylkill County	PAG02005414008(1)	UGI Utilities, Inc. ATTN: Michael Lantieri 1301 AIP Drive Middletown, PA 17057	Little Mahanoy Creek (CWF, MF) and UNT to Mahanoy Creek (CWF, MF)	Schuylkill County Conservation District 570-622-3742
Pine Grove Township Schuylkill County	PAG02005414003	Philip E. & Paula V. Riehl 1830 Camp Swatara Road Pine Grove, PA 17963	Swatara Creek (CWF, MF)	Schuylkill County Conservation District 570-622-3742
Delano Township Schuylkill County	PAG02005407015RR	Keystone Builders 252 E. Kercher Avenue Lebanon, PA 17046 MBC Development, LP P. O. Box 472 950 Main Street Schuylkill Haven, PA 17972	North Mahanoy Creek (CWF, MF)	Schuylkill County Conservation District 570-622-3742

*Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, Nathan Crawford, Section Chief, 717.705.4802*

*Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Straban Township Adams County	PAG02000114022 Issued	Paul M. Nolt 3587 Old Harrisburg Road Gettysburg, PA 17325	Conewago Creek/ WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717.334.0636
Union Township Adams County	PAG02000114030 Issued	Columbia Gas of PA 1600 Colony Road York, PA 17408	UNT to South Branch Codorus Creek/ WWF, MF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717.334.0636
Straban Township Adams County	PAG02000112024R Issued	Adams County Industrial Development Authority 1300 Proline Place Gettysburg, PA 17325	UNT to Rock Creek/ WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717.334.0636
Decatur Township Mifflin County	PAG02004412003R Issued	Groff Poultry Operation 135 Gerry Lane Lewistown, PA 17044	Jack's Creek/CWF	Mifflin County Conservation District 20 Windmill Hill #4 Burnham, PA 17009 717.248.4695 ext. 110
South Annville Township Lebanon County	PAG02003808031R Issued	Michael D. Garman 471 North Reading Street Ephrata, PA 17522	Quittapahilla Creek via Bachman Run/ TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717.272.3908, ext 4

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<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
South Londonderry Township Lebanon County	PAG02003814019 Issued	Don Lechleitner 1840 Fishburn Road Hershey, PA 17033	UNT to Spring Creek/WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717.272.3908, ext 4
South Londonderry Township Lebanon County	PAG02003814010 Issued	S. Gerald Musser 1310 Mount Pleasant Road Lebanon, PA 17042	UNT to Spring Creek/WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717.272.3908, ext 4
South Londonderry Township Lebanon County	PAG02003814033 Issued	Willie Weiler 350 East Mill Avenue Myerstown, PA 17067	UNT to Little Conewago Creek/ TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717.272.3908, ext 4
Silver Spring Township Cumberland County	PAG02002114038 Issued	JJLH Associates, Ltd. 4437 Street Road Trevose, PA 19053	Hogestown Run/ CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717.240.5359
Silver Spring Township Cumberland County	PAG02002109007R Issued	Midpenn Properties 4400 Deer Path Road Harrisburg, PA 17110	Trindle Spring Run/ CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717.240.5359
Silver Spring Township Cumberland County	PAG02002114039 Issued	Classic Communities 2151 Linglestown Road Harrisburg, PA 17119	Hogestown Run/ CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717.240.5359
North Newton Township Cumberland County	PAG02002114040 Issued	Aaron Fox 600 Oakville Road Shippensburg, PA 17257	Conodoguinet Creek/ WWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717.240.5359
Upper Allen Township Cumberland County	PAG02002107050R Issued	JIM JAM, LLC 311 Pennington Drive Mechanicsburg, PA 17055	Yellow Breeches Creek/CWF, MF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717.240.7812
Delaware Township Juniata County	PAG02003414007 Issued	Thompsontown DPP X, LLC 9010 Overlook Boulevard Brentwood, TN 37027	UNT to Juniata River/WWF	Juniata County Conservation District 146 Stoney Creek Drive, Suite 4 Mifflintown, PA 17059 717.436.8953 ext. 5
Lack Township Juniata County	PAG02003414008 Issued	Steven Zimmerman 375 Woodside Road East Waterford, PA 17021	Lick Run/CWF	Juniata County Conservation District 146 Stoney Creek Drive, Suite 4 Mifflintown, PA 17059 717.436.8953 ext. 5

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Bethel Township Berks County	PAG02000614022 Issued	Bethel Township 60 Klahr Road Bethel, PA 19507	UNT Crosskill & L. Swatara Creeks/ CWF	Berks County Conservation District 1238 County Welfare Road, Suite 200 Leesport, PA 19533-0520 610.372.4657
Lower Heidelberg Township Berks County	PAG02000614052 Issued	A J Giesa 93 East Penn Avenue Wernersville, PA 19565	Cacoosing Creek/ CWF	Berks County Conservation District 1238 County Welfare Road, Suite 200 Leesport, PA 19533-0520 610.372.4657
Reading City Berks County	PAG02000614059 Issued	HAR Associates, LP 726 Yorklynn Road Suite 150 Hockessin, PA 19707	Schuylkill River/ WWF, MF	Berks County Conservation District 1238 County Welfare Road, Suite 200 Leesport, PA 19533-0520 610.372.4657

*Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570.327.3636*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Union County Limestone Township	PAG02006014015	Jason Horowitz New Berlin DPP X LLC 9010 Overlook Blvd Brentwood, TN 37027	Lower Penns Creek CWF	Union County Conservation District Union County Government Center 155 N 15th St Lewisburg, PA 17837 (570) 524-3860

*Northwest Regional Office—Waterways and Wetlands, 230 Chestnut Street, Meadville PA 16335*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Lawrence Park Township Erie County	PAG02002514028	Lawrence Park Township 4230 Iroquois Drive Erie, PA 16511	Lake Erie (Outer Erie Harbor) WWF	Erie County Conservation District 814-825-6403
Young Township and Punxsutawney Borough	PAG02003312005R	H&B Development LLC 142 Universal Drive Punxsutawney, PA 15767-7940	Mahoning Creek WWF	Jefferson County Conservation District 814-849-7463
Archbald Borough Lackawanna County	PAG02-1135-14-001	PA DEP Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18701-0790	Susquehanna River (CWF)	PA DEP Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18701-0790 (570) 826-2371

*General Permit Type—PAG-03*

<i>Facility Location Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Philadelphia City Philadelphia County	PAG030014	Big Head Auto Salvage 3511 S. 61st Street Philadelphia, PA 19153	Schuylkill River— 3-F	Southeast Region Clean Water Program 484.250.5970
Philadelphia City Philadelphia County	PAR600085	Steve's Auto Parts II 3331 South 61st Street Philadelphia, PA 19153	Schuylkill River— 3-F	Southeast Region Clean Water Program 484.250.5970

## NOTICES

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<i>Facility Location Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Wilkes-Barre City Luzerne County	PAR122205	The Lion Brewery, Inc. 700 N. Pennsylvania Avenue Wilkes-Barre, PA 18705	Unnamed Tributary to Laurel Run—5-B CWF/MF	DEP Northeast Regional Office Clean Water Program 2 Public Square, Wilkes-Barre, PA 18701-1915 570.826.2511
Mifflin County Derry Township	PAR503503	Mifflin County Solid Waste Authority (Closed Barner #3 Landfill and the Barner Site Transfer Station)	UNT to Jacks Creek (Outfalls 003, 005 and 006), UNT to Kishacoquillas Creek (Outfalls 001, 002, and 004)/TSF & MF	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Lancaster County Mount Joy Township	PAG033511	Greiner Industries 1650 Steel Way Mount Joy, PA 17552	UNT to Donegal Creek/CWF & MF	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Berks County Reading City	PAG033512	ABF Freight System, Inc.—ABF Terminal 241 3801 Old Greenwood Road, PO Box 10048 Ft. Smith, AR 72903	UNT Schuylkill River/WWF & MF	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Lancaster County East Hempfield Township	PAG033513	ABF Freight System, Inc.—ABF Terminal 269 3801 Greenwood Road, PO Box 10048 Fort Smith, AR 72903	Brubaker Run/WWF & MF	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Blair County Allegheny Township	PAG033514	ABF Freight System, Inc.—ABF Freight 263 3801 Greenwood Road, PO Box 10048 Fort Smith, AR 72903	UNT Blair Gap Run/CWF & MF	DEP—SCRO— Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Dubois City Clearfield County (Industrial Stormwater)	PAG034814	ABF Freight System Inc. 3801 Old Greenwood Road P.O. Box 10048 Fort Smith, AR 72903-5937	Pentz Run—17-C	DEP Northcentral Regional Office Clean Water Program 208 W Third Street Suite 101, Williamsport, PA 17701-6448 570.327.0530
North East Borough Erie County	PAG038318	Bay Valley Foods LLC 2021 Spring Road, Oak Brook, IL 60523	Municipal storm sewer to Sixteenmile Creek 15	DEP NWRO Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Grove City Borough Mercer County	PAG038314	Reed Oil Company 511 Montgomery Avenue New Castle, PA 16102	Unnamed Tributary to the Wolf Creek 20-C	DEP NWRO Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942



*General Permit Type—PAG-4*

<i>Facility Location Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Haycock Township Bucks County	PAG040023 A-1	Dawson James 1079 Old Bethlehem Road Quakertown, PA 18951	Unnamed Tributary to Dimple Creek—2-D	DEP Southeast Regional Office Clean Water Program 2 E Main Street, Norristown, PA 19401 484.250.5970

*General Permit Type—MS4 PAG13*

<i>Facility Location Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Findlay Township Storm Sewer System Allegheny County	PAG136131	Findlay Township 1271 State Route 30 PO Box W Clinton, PA 15026	McClarens Run, Montour Run, North Fork Montour Run and South Fork Montour Run 20-G	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive, Pittsburgh, PA 15222-4745 412.442.4000
Robinson Township Storm Sewer System Allegheny County	PAG136161	Robinson Township 1000 Church Hill Road Pittsburgh, PA 15205	Montour Run, Moon Run, Unnamed Tributary of Chartiers Creek and Campbells Run 20-F and 20-G	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive, Pittsburgh, PA 15222-4745 412.442.4000
Whitaker Borough Allegheny County	PAG136278	Whitaker Borough 1001 Ardmore Boulevard Suite 100 Pittsburgh, PA 15221	Monongahela River 19-A	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive, Pittsburgh, PA 15222-4745 412.442.4000
South Park Township Storm Sewer System Allegheny County	PAG136291	South Park Township 2675 Brownsville Road South Park Township, PA 15129	Lick Run, Piney Fork, Sleepy Hollow Run and Unnamed Tributary to Catfish Run 19-C	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive, Pittsburgh, PA 15222-4745 412.442.4000
South Fayette Township Storm Sewer System Allegheny County	PAG136282	South Fayette Township 515 Millers Run Road Morgan, PA 15064	Coal Run, Millers Run, Robinson Run and Thoms Run 20-F	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive, Pittsburgh, PA 15222-4745 412.442.4000
Glassport Borough Allegheny County	PAG136312	Borough of Glassport 440 Monongahela Road Glassport, PA 15045	Monongahela River 19-C	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive, Pittsburgh, PA 15222-4745 412.442.4000

**STATE CONSERVATION COMMISSION****NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOs**

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules

of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

**NUTRIENT MANAGEMENT PLAN  
PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>AEU's</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Anthony Oberholtzer 1500 Pine Grove Road Bethel, PA 19507	Berks	210	379.17	Poultry— Broilers	NA	Approved
David & Cathy Reifsneider 2569 New Bridgeville Road Felton, PA 17322	York	13.1	366.67	Broiler	NA	Approved
Leon Zimmerman 2011 Maytown Road Elizabethtown, PA 17022	Lancaster	222.6	1,209.47	Steer/ Swine/ Pullets	NA	A
Rohrer Farms LLC 750 Doe Run Road Lititz, PA 17543	Lancaster	326.4	1,841.54	Swine/ Pullets	NA	A
Doug Wolgemuth 2914 Orchard Road Mount Joy, PA 17552	Lancaster	938.7	1,229.05	Swine/ Poultry	NA	A
Geoffrey Rohrer 3392 Blue Rock Road Lancaster, PA 17603	Lancaster	868.6	1,144.36	Dairy/ Broiler	NA	A
Keystone Dairy Ventures, LLC 324 Balance Meeting Road Peach Bottom, PA 17563	Lancaster	655.3	1,408.5	Dairy	HQ	A
Zartman Farms LLC Thomas Zartman 820 Hilltop Rd. Ephrata, PA 17522	Lancaster	600	620.25	Swine	NA	A

**PUBLIC WATER SUPPLY PERMITS**

The Department has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in

and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this document to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act**

*Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401*

**Permit No. 4614520, Minor Amendment.** Public Water Supply.

Applicant **North Penn Water Authority**  
300 Forty Foot Road  
Lansdale, PA 19446

Borough Lansdale  
 County **Montgomery**  
 Type of Facility PWS  
 Consulting Engineer Entech Engineering, Inc.  
 4 South Fourth Street  
 P.O. Box 32  
 Reading, PA 19603-0032

Permit to Construct November 18, 2014  
 Issued

**Permit No. 0914512, Minor Amendment.** Public Water Supply.

Applicant **Doylestown Township Municipal Authority**  
 425 Wells Road  
 Doylestown, PA 18901-2717

Township Doylestown  
 County **Bucks**  
 Type of Facility PWS  
 Consulting Engineer SC Engineers, Inc.  
 P.O. Box 407  
 Fort Washington, PA 19034

Permit to Operate November 5, 2014  
 Issued

**Permit No. 1514530, Minor Amendment.** Public Water Supply.

Applicant **Chester Water Authority**  
 415 Welsh Street  
 P.O. Box 467  
 Chester, PA 19016

Township East Nottingham  
 County **Chester**  
 Type of Facility PWS  
 Consulting Engineer Chester Water Authority  
 415 Welsh Street  
 P.O. Box 467  
 Chester, PA 19016

Permit to Construct November 18, 2014  
 Issued

**Permit No.0914517, Minor Amendment.** Public Water Supply.

Applicant **Bucks Run Apartments**  
 813 Manor Drive  
 Dublin, PA 18917

Borough Dublin  
 County **Bucks**  
 Type of Facility PWS  
 Consulting Engineer Cowan Associates, Inc.  
 120 Penn-Am Drive  
 P.O. Box 949  
 Quakertown, PA 18951

Permit to Construct November 3, 2014  
 Issued

*Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915*

**Permit No. 4514504 Major Amendment,** Public Water Supply.

Applicant **PA American Water**  
 800 W. Hershey Park Drive  
 Hershey, PA. 17033

[Borough or Township] Middle Smithfield Township  
 County **Monroe**

Type of Facility PWS  
 Consulting Engineer Mr. Francis Mark Voyack, PE  
 Quad Three Group, Inc  
 37 North Washington Street  
 Wilkes-Barre, PA 18701

Permit to Construct December 1, 2014  
 Issued

**Permit No. 4590507-T2,** Public Water Supply.

Applicant **Pocono Boulevard, LLC**  
 P.O. Box 298  
 New York, NY 10101

[Borough or Township] Coolbaugh Township  
 County **Monroe**

Type of Facility PWS  
 Consulting Engineer Brick Linder, PE  
 Linder Engineering, Inc.  
 2603 Route 390  
 Canadensis, PA 18235

Permit to Construct December 3, 2014  
 Issued

*Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110*

**Operation Permit No. 3113501 MA** issued to: **Orbisonia-Rockhill Joint Municipal Authority (PWS ID No. 4310025)**, Cromwell Township, **Huntingdon County** on 12/4/2014 for facilities approved under Construction Permit No. 3113501 MA.

**Comprehensive Operation Permit No. 7010038** issued to: **The York Water Company (PWS ID No. 7010038)**, Cumberland Township, **Adams County** on 12/2/2014 for the operation of facilities at Western Cumberland Water System submitted under Application No. 7010038.

**Transferred Comprehensive Operation Permit No. 7010044** issued to: **The York Water Company (PWS ID No. 7010044)**, Cumberland Township, **Adams County** on 12/4/2014. Action is for a Change in Ownership for Eastern Cumberland Water System, Adams County for the operation of facilities previously issued to Meadows Property Owners Association.

*Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**Permit No. 0814501—Construction—**Public Water Supply.

Applicant **Bradford County Manor Water System**

Township/Borough West Burlington Township  
 County **Bradford**

Responsible Official	Mr. Larry Bellinger Bradford County Manor 15900 Route 6 Troy, PA 16947
Type of Facility	Public Water Supply
Consulting Engineer	Timothy Steed, P.E. Hunt-EAS 1 Elizabeth Street, Suite 12 Towanda, PA 18848
Permit Issued	December 5, 2014
Description of Action	Development of the Replacement Well as a new source of supply and abandonment of the 1947 Well. New source treatment will be via the existing treatment facilities. In conjunction with issuance of an operation permit for the Replacement Well, the permit for the 1947 Well will be cancelled.

*Northwest Region: Safe Drinking Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481*

**Emergency Operation Permit** issued to **Fox Township (Toby Water)**, PWSID #6240008, Fox Township, **Elk County** on November 25, 2014. This permit is issued for the use of the proposed temporary booster chlorination trailer.

**Operation Permit** issued to **Niki, Inc.**, PWSID No. 6160831, Salem Township, **Clarion County**. Permit Number 1614502 issued November 21, 2014 for the operation of 4-Log treatment of viruses for Entry Point 100. This action is taken under the requirements of the Groundwater Rule.

**Operation Permit** issued to **Slippery Rock Associates**, PWSID No. 5100071, Brady Township, **Butler County**. Permit Number 1013504-MA1 issued December 2, 2014 for the operation of the Maple Manor Mobile Home Park. This permit is issued in response to an operation inspection conducted by the Department of Environmental Protection personnel on November 14, 2014.

**Operation Permit** issued to **John W. Bauer, Jr. and Erin A. Bauer**, PWSID No. 5100450, Clearfield Township, **Butler County**. Permit Number 1014504 issued December 5, 2014 for the operation of the County Line Tavern water treatment upgrades. This permit is issued in response to an operation inspection conducted by the Department of Environmental Protection personnel on December 3, 2014.

#### SEWAGE FACILITIES ACT PLAN APPROVAL

#### Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

*Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. 717-705-4707.*

##### Plan Location:

Borough or Township	Borough or Township Address	County
Exeter Township	4975 DeMoss Road, Reading, PA 19606	Berks

*Plan Description:* The approved plan provides for the direct replacement of the trunk sewers in the Schuylkill River, Heisters Creek and Antietam Creek Drainage

Areas. Also, the implementation of a township-wide Sewage Management Plan with the inclusion of the Glen Oley Farms area as a future public sewer service area. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

#### SEWAGE FACILITIES ACT PLAN DISAPPROVAL

#### Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act

*Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. 717-705-4707.*

##### Plan Location:

Borough or Township	Borough or Township Address	County
Penn Township	100 Municipal Building Rd, Duncannon, PA 17020	Perry

*Plan Description:* The Request for Planning Exemption for Robert D. Kerlin, DEP Code No. A3-50921-176-3E, APS Id 858704, consisting of an existing commercial building with flows of 150 gallons per day to be connected to Penn Township Municipal Authority sewers, is disapproved. The proposed development is located on State Road. This plan is disapproved because the submission does not qualify as an exemption from the requirement to revise the Official Plan because the proposal is not for new land development as per Chapter 71, Section 71.51(b).

##### Plan Location:

Borough or Township	Borough or Township Address	County
Fayette Township	181 Bunkertown Rd, McAlisterville, PA 17049	Juniata

*Plan Description:* The Request for Planning Exemption for Scot A. Goodling, DEP Code No. A3-34903-216-2E, APS Id 858415, consisting of 3 new single family residential lots using individual onlot sewage disposal systems, is disapproved. The proposed development is located on Cuba Mills Road. This plan is disapproved because the submission does not qualify as an exception to the requirement to revise your Official Sewage Facilities Plan because the subdivision proposes the use of onlot sewage disposal systems in an area within 1/4 mile of water supplies documented to exceed 5 PPM nitrate-nitrogen as per Chapter 71, Section 71.55(a)(2) and Chapter 71, Section 71.62(c)(2)(iii), and Fayette Township's approved Official Plan. A Component 2 planning module with a preliminary hydrogeologic evaluation must be completed.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995 PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907).**

Provisions of Sections 301—308 of the Land Recycling and Environmental Remediation Standards Act (act) (35

P. S. §§ 6026.301—6026.308) require the Department to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, will also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the environmental cleanup program manager in the Department regional office under which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Northcentral Region: Environmental Cleanup & Brownfields Program Manager, 208 West Third Street, Williamsport, PA 17701*

**Cargill Animal Nutrition-Winfield**, 70 Agway Lane, Union Township, **Union County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857 on behalf of Willis Z. Wenger, 298 South 2nd Street, Womelsdorf, PA 19567 has submitted a Final Report concerning remediation of site soils contaminated with Benzene, Anthracene, Benzo(a)anthracene, Benzo(a)pyrene, Naphthalene, Benzo(b)fluoranthene, Benzo(g,h,i) perylene, Chrysene, Flourene, Phenanthrene, Pyrene. The report is intended to document remediation of the site to meet the Statewide Health Standard.

*Northeast Region: Eric Supey, Environmental Cleanup and Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Bethlehem Commerce Center—Lot 84**, 1019 Gilchrist Drive, Bethlehem City, **Northampton County**, James Koval, HDR Engineering Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015, has submitted a Remedial Investigation Report and Cleanup Plan on behalf of his client, Lehigh Valley Industrial Park Inc., 1720 Spillman Drive, Suite 150, Bethlehem, PA 18015-2164, concerning the remediation of soil found to have been impacted by undetermined substances as a result of historical manufacturing operations at the site. The applicant proposes to remediate the site to meet the Site Specific Standard for soil. A summary of the Remedial Investigation Report and Cleanup Plan was published in *The Morning Call* on November 15, 2014.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.*

**Barrick & Stewart Milk Hauling Diesel Fuel Release**, 4260 and 4290 Big Spring Road, New Germantown, PA 17071, Toboyne Township, **Perry County**. Crawford Environmental Services, 100 East Benjamin Franklin Highway, Birdsboro, PA 19508, on behalf of Barrick & Stewart Milk Hauling, 445 Whisky Run Road, Newville, PA 17241; Steve Berry, 4260 Big Spring Road, New Germantown, PA 17071; and Tom and Joann Brill, 1408 Trout Run Road, Mount Joy, PA 17552, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel released in a vehicle accident. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

**Pennsylvania Department of Transportation York County Maintenance Facility**, Manchester Township, **York County**. Leidos Engineering, LLC, 180 Gordon Drive, Suite 109, Exton, PA 19341 on behalf of Pennsylvania Department of Transportation, 400 North Street, 6th Floor, Harrisburg, PA 17120-0094, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with petroleum hydrocarbons. The report is intended to document remediation of the site to meet the Site Specific Standard.

*Southwest Region: Environmental Cleanup & Brownfield Development Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

**Helen Bukovac #4 Well Site**, 760 Little Summit Road Extension, Dunbar Township, **Fayette County**. Groundwater & Environmental Services, Inc., 301 Commerce Park Drive, Cranberry Township, PA 16066 on behalf of XTO Energy Inc., 395 Airport Road, Indiana, PA 15701 has submitted a Final Report to demonstrate attainment of a combination of residential Statewide Health and Site Specific Standards concerning site soils contaminated with aluminum, antimony, arsenic, barium, beryllium boron, cadmium chromium, cobalt, copper, iron lead, manganese, mercury, nickel, selenium, silver, thallium, vanadium, zinc and chloride. Notice of the Final Report was published in the *Daily Courier* on July 15, 2014.

**Donaldson's Square (former auto repair/gasoline station)**, 3855 Washington Road, Peters Township, **Washington County**. Penn Environmental & Remediation, Inc., 111 Ryan Court, Pittsburgh, PA 15205 on behalf of Crossroads Acquisitions, LLC., 451 Parker Drive, Pittsburgh, PA 15216 has submitted a Final Report concerning the remediation of site soil contaminated with volatile organic compounds. The final report is intended to document remediation of the site to meet the Statewide Health standard. Notice of the final report was published in the *Pittsburgh Post-Gazette* on November 17, 2014.

**Aspinwall Waterworks Site**, Waterworks Drive and River Avenue, Borough of Aspinwall, **Allegheny County**. Tetra Tech, Inc., 661 Andersen Drive, Pittsburgh, PA 15215 on behalf of the Borough of Aspinwall, 217 Commercial Ave., Aspinwall, PA 15220 has submitted a Final Report concerning site soils and groundwater contaminated with volatile/semi-volatile organic compounds (VOC's and SVOC's) and metals. The report is intended to document remediation of the site to meet the site Specific standard. Notice of the Final Report was published in the *Tribune Review* on October 22, 2014.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995 PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907).**

Section 250.8 of 25 Pa. Code and administration of the Land Recycling and Environmental Remediation Standards Act (act) require the Department to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the environmental cleanup program manager in the Department regional office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Northcentral Region: Environmental Cleanup & Brownfields Program Manager, 208 West Third Street, Williamsport, PA 17701*

**Cargill Animal Nutrition**, 70 Agway Lane, Union Township, **Union County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of Willis

Z. Wenger, 298 South 2nd Street, Womelsdorf, PA 19567 has submitted a Final Report concerning the remediation of site soils contaminated with Benzene, Anthracene, Benzo(a)anthracene, Benzo(a)pyrene, Naphthalene, Benzo(b)fluoranthene, Benzo(g,h,i)perylene, Chrysene, Flourene, Phenanthrene, Pyrene. The Final Report demonstrated attainment of the Statewide Health Standard, and was approved by the Department on September 5, 2014.

*Northeast Region: Eric Supey, Environmental Cleanup and Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Bethlehem Commerce Center—Lot 84**, 1019 Gilchrist Drive, Bethlehem City, **Northampton County**, James Koval, HDR Engineering Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015, has submitted a Remedial Investigation Report and Cleanup Plan on behalf of his client, Lehigh Valley Industrial Park Inc., 1720 Spillman Drive, Suite 150, Bethlehem, PA 18015-2164, concerning the remediation of soil found to have been impacted by undetermined substances as a result of historical manufacturing operations at the site. The applicant proposes to remediate the site to meet the Site Specific Standard for soil. The report was approved on December 4, 2014.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.*

**62 School Lane Property**, Reading, PA 19606, Oley Township, **Berks County**. Liberty Environmental, Inc., 50 North 5th Street, 5th Floor, Reading, PA 19601, on behalf of Nation Star Mortgage, REO Department, 350 Highland Drive, Lewisville, TX 75067, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department on December 1, 2014.

**Pennsylvania Department of Transportation York County Maintenance Facility**, Manchester Township, **York County**. Leidos Engineering, LLC, 180 Gordon Drive, Suite 109, Exton, PA 19341 on behalf of Pennsylvania Department of Transportation, 400 North Street, 6th Floor, Harrisburg, PA 17120-0094, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with petroleum hydrocarbons. The report is intended to document remediation of the site to meet the Site Specific Standard. The report was administratively incomplete, and was disapproved by the Department on December 4, 2014.

*Northwest Region: Environmental Cleanup & Brownfields Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481*

**Leech Tool**, 13144 Dickson Road, West Mead Township, **Crawford County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412, on behalf of Leech Industries, Inc., 13144 Dickson Road, Meadville, PA 16335, submitted a Final Report concerning the remediation of site groundwater contaminated with Tetrachloroethene, Trichloroethene, cis 1,2-Dichloroethene, trans 1,2-Dichloroethene, 1,1,-Dichloroethene, and Vinyl Chloride. The Final Report did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department on December 8, 2014.

## HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

**Permits issued, suspended, expired, denied, revoked, reinstated or returned under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**PA6213820503. Letterkenny Army Depot**, 1 Overcash Avenue, Chambersburg, PA 17201. A Class 3 Permit Modification was approved for RCRA Part B Permit Number PA6213820503 to add a new ammonium perchlorate (AP) rocket motor destruction (ARMD) facility that will use confined burning with emissions control to treat solid propellant rocket motors at Letterkenny Army Depot. The Class 3 permit modification was issued on December 8, 2014.

**Draft permits issued, revised or withdrawn under the Solid Waste Management Act and Regulations to Operate a Hazardous Waste Treatment, Storage, or Disposal Facility.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701*

**PAD003047792. American Color & Chemical LLC**, 1 Mount Vernon Street, P.O. Box 88, Lock Haven, PA 17745, City of Lock Haven, **Clinton County**. Draft permit issued on December 9, 2014.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**GP14-15-0099: Chester County Crematory, LLC**. (829 Lincoln Avenue, C-9, West Chester, PA 19380) On December 4, 2014, was authorized to operate a human crematory in West Goshen Township, **Chester County**.

**GP11-09-0075: Mountain Mulch Company** (244 Sas-samansville Road, Sassamansville, PA 19472) On December 4, 2014, was authorized to operate two (2) nonroad engine(s) in Hilltown Township, **Bucks County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507*

**GP2-39-002: Allentown Terminals Corporation** (PO Box 2621, Harrisburg, PA 17105-2621) on December 4, 2014 for the construction and operation of new storage tank with an internal floating roof at the site located in Allentown, **Lehigh County**.

**GP5-58-008A Williams Field Services LLC** (51 Warren Street, Tunkhannock, PA 18657) on November 19, 2014 for the construction and operation of compressor engines and dehys/reboilers at the White Compressor Station site located in Springville Township, **Susquehanna County**.

**GP5-58-011A Williams Field Services LLC** (51 Warren Street, Tunkhannock, PA 18657) on November 19, 2014 for the construction and operation of compressor engines and dehys/reboilers at the Gibson Compressor Station site located in Gibson Township., **Susquehanna County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Barbara Hatch, Facilities Permitting Chief—Telephone: 412-442-5226*

**GP5-32-00319C: Keyrock Energy, LLC** (2800 State Route 982, Mt. Pleasant, PA 15666) on November 14, 2014, received authorization under GP-5 for construction and/or operation of sources and controls associated with a natural gas compression facility at its Clawson Compressor Station located in Black Lick Township, **Indiana County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-6636*

**GP5:20-297B: Laurel Mountain Midstream Townville Compressor Station** (14499 Maplewood Rd., Townville, PA 16360) on December 4, 2014 for the authority to operate a 1340 bhp Caterpillar Compressor Engine, a TEG dehydrator with a 0.25 MMBtu/hr Reboiler, and a storage tank (BAQ-GPA/GP5) located in Randolph Township, **Crawford County**.

**Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**15-0114A: Action Manufacturing Company** (500 Bailey Crossroads Road, Atglen, PA 19310; Attn: Mr. Randy Aukamp) On December 5, 2014, for the installation of two additional detonator chambers and the use of ethyl alcohol, at an existing ordinance detonator manufacturing facility located in West Fallowfield Township, **Chester County**. This facility is a non-Title V facility. The installation of two additional units will allow for Action Manufacturing to better utilize the detonator chambers without having to reconfigure them as often. Action Manufacturing will continue to maintain the restriction of operating no more than three test chambers at a time, as per their State Only Operating Permit (Source ID 100). Emissions will be controlled by an existing Airomax Filtration System (Source ID C100), which consists of two levels of pre-filters, a set of fabric filter bags, and a high-efficiency particulate air (HEPA) filter. Potential emissions from all criteria pollutants for Source ID 100 are less than 0.1 TPY. Emissions of PM are expected to be less than 0.02 grain per dry standard cubic feet. As part of the operations at the facility, ethyl alcohol is used throughout the facility. It is used in small quantities within the various buildings at the facility, with a total potential VOC emission rate of 4.1 TPY. Because ethyl alcohol usage is dispersed throughout the facility, BAT is best management practices.

The Plan Approval will contain monitoring, recordkeeping, and operating conditions designed to keep the facility

operating within the allowable emissions and all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4762, Lisa Dorman, New Source Review Permitting Chief—Telephone: 717-705-4863 or William Weaver, Regional Air Quality Manager, Telephone: 717-705-4702.*

**36-05053A: Buck Company Inc.** (897 Lancaster Pike, Quarryville, PA 17556) on December 2, 2014, for authorization to install a new baghouse to control foundry equipment, and to add CAM provisions for an existing baghouse, at the foundry in Providence Township, **Lancaster County**.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**09-0037H: CMS Gilbreth Packaging Systems, Inc.** (3001 State Road, Croydon, PA 19021) On December 3, 2014, for the operation of a regenerative thermal oxidizer in Bristol Township, **Bucks County**.

**09-0189B: Eureka Stone Quarry, Inc.** (P.O. Box 249, Chalfont, PA 18914) On December 2, 2014, for the operation of the Nesco wet system in Warrington Township, **Bucks County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4762, Lisa Dorman, New Source Review Permitting Chief—Telephone: 717-705-4863 or William Weaver, Regional Air Quality Manager, Telephone: 717-705-4702.*

**28-05009B: Borough of Chambersburg** (100 South Second Street, Chambersburg, PA 17201) on December 1, 2014, for the installation of a dedicated oxidation catalyst on three existing natural gas/No. 2 fuel oil-fired reciprocating internal combustion engines (Source IDs 105, 106 and 107) at the Falling Spring Generating Station in Chambersburg Borough, **Franklin County**. The plan approval was extended.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648*

**08-00044B: Barefoot Pellets Company** (PO Box 96, Troy, PA 16947) on December 3, 2014, to extend the authorization to operate a natural gas fired rotary dryer and associated multi-clone collector at their facility in Troy Township, **Bradford County** on a temporary basis to June 4, 2015. The plan approval has been extended.

**14-00002H: Graymont (PA), Inc.** (965 E. College Ave., Pleasant Gap, PA 16823) on November 21, 2014, to extend the authorization an additional 180 days from December 11, 2014 to June 9, 2015, in order to permit

operation pending issuance of an operating permit for the source and continue the compliance demonstration evaluation. The extension authorization allows continued operation of the scrubber equipped on Kiln No. 7 pursuant to Plan Approval 14-00002H. The source is located at the Pleasant Gap Plant in Spring Township, **Centre County**. The plan approval has been extended.

**19-00028A: White Pines Corporation** (515 State Route 442, Millville, PA 17846) on November 21, 2014, to extend the authorization an additional 180 days from November 22, 2014 to May 21, 2015, in order to permit operation pending issuance of an operating permit for the facility. The extension authorization allows continued leachate pre-treatment operation at the facility located in Pine Township, **Columbia County**. The plan approval has been extended.

**57-00005B: Appalachia Midstream Services, LLC** (PO Box 54382, Oklahoma City, OK 73154-1382) on October 22, 2014, to extend the authorization an additional 180 days from November 10, 2014 to May 9, 2015, in order to continue the compliance evaluation and permit operation pending issuance of an operating permit for the facility. The extension authorization allows continued operation of the sources located in Cherry Township, **Sullivan County**. The plan approval has been extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745*

*Contact: Mark R. Gorog, P.E., Environmental Engineer Manager—Telephone: 412-442-4150*

**11-00529A: Ebensburg Animal Hospital** (922 Rowena Drive, Ebensburg, PA 15931) plan approval extension effective November 16, 2014, with an expiration date of May 16, 2015, for continued temporary operation of one (1) Matthews International-Cremation Division IEB-16 natural gas-fired crematory incinerator at the Ebensburg Animal Hospital located in Ebensburg Borough, **Cambria County**.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**46-00122: Blue Bell Investment Company, LP** (801 Lakeview Drive, Blue Bell, PA 19424) On December 4, 2014, for operation of boilers and emergency generators at the office complex in Whitpain Township, **Montgomery County**. The renewal permit is for a non-Title V (State Only) facility. The facility elects to cap Nitrogen Oxide (NO<sub>x</sub>) emissions less than major thresholds; therefore the facility is categorized as a Synthetic Minor. The requirements of 40 CFR Part 60 Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines apply to new diesel fired engines on site. The requirements of 40 CFR Part 60 Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines apply to new natural gas fired engines on site. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.



**46-00167: Parkhouse Providence Pointe** (1600 Black Rock Road Royersford, PA 19468-3109) On December 4, 2014, for operation of a long-term care, geriatric/rehabilitation nursing facility in Upper Providence Township, **Montgomery County**. This action is a renewal of a State Only Operating Permit (Synthetic Minor), which was issued on September 4, 2009. The permit is for a non-Title V (State Only) facility. The facility has elected to cap Nitrogen Oxide Compounds (NO<sub>x</sub>) to less than 25 tons per year making the facility a Synthetic Minor. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-00158: Colorcon, Inc.** (415 Moyer Boulevard, West Point, PA 19486) On December 4, 2014, in Upper Gwynedd Township, **Montgomery County** a renewal of State Only (Natural Minor) Operating Permit No. 46-00158. The facility's main sources of air contaminant emissions are four boilers, two emergency generator sets, and various sources comprising a polyvinyl acetate phthalate ("PVAP") plant, a lake plant, and dry and wet dispersion production areas. Particulate matter ("PM") emissions from the sources comprising the PVAP plant, lake plant, and dry and wet dispersion areas are controlled by associated dust collectors or scrubbers. PM emissions from the facility are restricted to 21.0 tons/yr, calculated monthly as a 12-month rolling sum. Volatile organic compound ("VOC") emissions from the reaction vessels and various fugitive emission sources in the PVAP plant, the wet dispersion area, and the facility are restricted to 1.72 ton/yr, 1.04 ton/yr, 10.68 tons/yr, and 14.6 tons/yr, respectively, all calculated monthly as 12-month rolling sums. Nitrogen oxide ("NO<sub>x</sub>") emissions from the exempt engines of the emergency generator sets are restricted to 100 lbs/hr, 1,000 lbs/day, 2.75 tons/ozone season (i.e., the period from May 1—September 30 of each year), and 6.6 tons/yr, calculated monthly as a 12-month rolling sum.

Since the State Only Operating Permit ("SOOP") was last modified in 2013, Colorcon, Inc., has replaced one of its boilers and added an additional blender to the dry dispersion area. These sources will be included in the renewal SOOP, and subject to the same requirements specified in the previously-modified (i.e., current) SOOP. In addition, the engines of the emergency generator sets are subject to the provisions of 40 C.F.R. Part 60, Subpart IIII, and/or 40 C.F.R. Part 63, Subpart ZZZZ. All applicable requirements of these regulations will be included in the renewal SOOP.

The renewal SOOP will continue to include monitoring, recordkeeping, reporting, and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

**46-00272: Tech Tube, Inc.** (750 Vandenberg Road, King of Prussia, PA 19406) On December 5, 2014, to issue an initial operating permit at their facility in Upper Merion Township, **Montgomery County**. Tech Tube specializes in the manufacturing of small diameter-cold-drawn tubing, for automotive, medical, and aerospace companies. Tech Tube operates a Batch Vapor Degreaser as part of the production process. The Degreaser uses trichloroethylene as a cleaning agent. A Carbon Adsorption System has been installed, and tested, to capture the Volatile Organic Compounds emissions from the degreaser. Tech Tube is a minor facility. The Degreaser is subject to Subpart T—National Emission Standards for

Halogenated Solvent Cleaning. The Operating Permit will include monitoring, recordkeeping requirements, and work practice standards designed to keep the facility operating within all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507*

**35-00010: MACTac, Inc. /Scranton** (802 Corey Street, Scranton, PA 18505-3595) on December 5, 2014 for coated and laminated manufacturing in Moosic Borough, **Lackawanna County**. The primary sources consist of three (3) boilers and coater lines. The sources are considered minor emission sources of nitrogen oxide (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), particulate matter (PM<sub>10</sub>), and volatile organic compounds (VOC) emissions. This is a State-Only Synthetic Minor Operating Permit. The State-Only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**54-00051: PA Department of Corrections/Mahanoy Plant** (301 Morea Road, Frackville, PA 17932) on December 4, 2014 for operation of a correctional institution located in Mahanoy Township, **Schuylkill County**. The primary sources consist of boilers and emergency generators. The sources are considered minor emission sources of nitrogen oxide (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), total suspended particulate (TSP), and volatile organic compounds (VOC) emissions. This is a renewal State-Only Synthetic Minor operating permit. The State-Only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4762, Lisa Dorman, New Source Review Permitting Chief—Telephone: 717-705-4863 or William Weaver, Regional Air Quality Manager, Telephone: 717-705-4702.*

**67-03145: Weldon Solutions** (425 E. Berlin Road, York, PA 17408-8810) on December 2, 2014, for their machine tool manufacturing facility in West Manchester Township, York County. The State-only permit was renewed.

**67-05124: Schindler Elevator Corp.** (21 Industrial Drive, Hanover, PA 17331-9530) on December 2, 2014, for their elevator manufacturing facility in Hanover Borough, York County.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701*

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648*

**55-00024: Conestoga Wood Specialties Corporation** (PO Box 158, East Earl, PA 17519) on December 1, 2014, was issued a state only operating permit (renewal) for their Beaver Springs Facility located in Spring Township, **Snyder County**. The facility's significant sources include

woodworking equipment for kiln-dried lumber. The state only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**47-00005: Geisinger Medical Center** (100 North Academy Avenue, Danville, PA 17822) on December 1, 2014, was issued a state only synthetic minor operating permit (renewal) for their facility located in Mahoning Township, **Montour County**. The facility's significant sources include several boilers and emergency generators located throughout the facility as well as a natural gas-fired combined heat and power process. The state only synthetic minor operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-616636*

**20-00979: National Fuel Gas Supply Corporation, Eldred Compressor Station** (12797 Fisher Road, Eldred Township, PA) On December 4, 2014, the Department re-issued a Natural Minor Permit to operate a natural gas compressor station located in Eldred Township, **Jefferson County**. The primary emissions are from the two 150 Hp compressor engines at the facility.

Source ID: 101—150 Hp Compressor Engine 11 and Source ID: 102—150 Hp Compressor Engine 12 are subject to the newly promulgated requirements of 40 CFR 63, Subpart ZZZZ—National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. The latest revisions of that subpart have been attached to those sources.

Source ID: 103—Emergency Generator (97.5 Hp) was replaced in September 2010. Based on the language contained in 40 CFR § 63.6590(c), a new RICE source located at an area source must meet the requirements of Subpart ZZZZ by meeting the requirements of 40 CFR Part 60, Subpart JJJJ, for spark ignition engines. The requirements of Subpart JJJJ have been attached to this source.

The potential emissions from this facility are as follows. (All values are in tons/year.) PM = 0.20, PM<sub>10</sub>/PM<sub>2.5</sub> = 0.20, SO<sub>x</sub> = 0.02, NO<sub>x</sub> = 71.80, VOC = 12.30, CO = 8.20, CO<sub>2e</sub> = 1915.00, and Total HAPs = <1.00.

**33-00156: National Fuel Gas Supply Corporation, Reynoldsville Compressor Station** (1100 State Street, Erie, PA 16512-2081) on December 3, 2014, for renewal of a Natural Minor Permit to operate a natural gas compressor station. The facility is located in Winslow Township, **Jefferson County**. The facility's emitting sources include 1) 150 Compressor Unit #1 and, 2) Natural Gas Dehydration Unit. The facility is a Natural Minor because the emissions of pollutants from the facility are less than Title V threshold limits. The 150 HP compressor engine is subject to 40 CFR Part 63, Subpart ZZZZ. All applicable conditions of Subpart ZZZZ have been included in the source level of the permit. The emissions of the pollutants from the engine are limited to the following: CO: 2.63 Tons per year (TPY), NO<sub>x</sub>: 2.63TPY, PM<sub>10</sub>: 0.060 TPY, NMHC—1.42 TPY and Sulfur Dioxide: .003 TPY.

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**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920*

**46-00035: Glaxosmithkline** (709 Swedeland Road, Upper Merion, PA, 19406) On December 4, 2014, located in Upper Merion Township, **Montgomery County** was amended to incorporate Plan Approval PA-46-0035H. The amendment incorporated PA 46-0035H (Installation of oxidation catalyst on five existing emergency generators—Source ID 047B and remove the 110 hrs/yr limit on each generator and establish annual fuel usage limit; also increased the throughput of diesel/No. 2 fuel oil in Tank 2A from 25,000 to 65,000 gals/yr) into the permit. The amended Title V Operating Permit will contain additional monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

**46-00001: JBS Souderton, Inc.** (741 Souder Road, Souderton, PA 18964) On December 4, 2014, located in Franconia Township, **Montgomery County**. The Title V facility is a meat-packing and rendering plant, which emits major levels of Nitrogen Oxides (NO<sub>x</sub>). The Minor Modification of Title V Operating Permit is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462. The modification addresses a change in fuel used in the York Shipley Boiler (Source ID 031) and the Keeler Boilers (Source ID No. 033 and No. 034) from No. 6 fuel oil to No. 2 fuel oil. The permit contains all applicable requirements including monitoring, recordkeeping and reporting. Sources at this facility are not subject to Compliance Assurance Monitoring (CAM) pursuant to 40 CFR Part 64 because the existing control devices are not used to reduce emissions for which the facility is major (NO<sub>x</sub>).

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110*

*Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4762, Lisa Dorman, New Source Review Permitting Chief—Telephone: 717-705-4863 or William Weaver, Regional Air Quality Manager, Telephone: 717-705-4702.*

**05-05006: Columbia Gas Transmission LLC** (1700 MacCorkle Ave. SE, Charleston, WV 25314) on November 25, 2014, for the Artemas Compressor Station in Mann Township, **Bedford County**. The Title V permit was administratively amended to incorporate the requirements of Plan Approval No. 05-05006C.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481*

*Contact: Edward Orris, New Source Review Chief—Telephone: 814-332-616636*

**33-00085: Symmco Incorporated** (PO Box F, Sykesville, PA 15865-0039) on December 5, 2014 issued an administrative amendment to the State Only Operating Permit for the facility located in Sykesville Borough, **Jefferson County**. The amendment incorporates the applicable requirements of plan approval 33-085B.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law; the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.20a). The final action on each application also constitutes action on the NPDES permit application and, if noted, the request for a Section 401 Water Quality Certification. Mining activity permits issued in response to applications will also address the application permitting requirements of the following statutes: the Air Quality Pollution Act (35 P. S. §§ 4001—4014); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1002).**

### Coal Permits Issued

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100*

**03851303 and NPDES No. PA0213462. McVille Mining Company**, (301 Market Street, Kittanning, PA 16201-9642). To renew the permit for the Clementine Mine No. 1 in South Buffalo Township, **Armstrong County**. No additional discharges. The application was considered administratively complete on January 14, 2010. Application received October 21, 2009. Permit issued November 20, 2014.

**16831604 and NPDES No. PA0100196. RFI Energy, Inc.**, (1513 Shannon Tipple Road, PO Box 162, Sligo, PA 16255). To renew the permit for the Shannon Preparation Plant in Piney and Toby Townships, **Clarion County**. No additional discharges. The application was considered administratively complete on April 27, 2011. Application received December 17, 2010. Permit issued November 21, 2014.

**56021301 and NPDES No. PA0235547 and GP12-56021301-R17. Elk Lick Energy, Inc.**, (PO Box 260, 1576 Stoystown Rd., Friedens, PA 15541). To renew the permit for the Roytown Deep Mine in Lincoln Township, **Somerset County**, and includes renewal of Air Quality GPA/GP-12 authorization. Approval is authorized under General Permit BAQ-GPA/GP12 and is required to meet all applicable limitations, terms, and conditions of authorization GP12-56021301-R17. No additional discharges. The application was considered administratively complete on December 23, 2013. Application received October 3, 2013. Permit issued November 26, 2014.

**02141301 (formerly 02891701) and NPDES No. PA0215571. Consol Mining Company LLC**, (CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317). To renew the post-mining water treatment permit for the Harmar Mine in Harmar and Indiana Townships and Fox Chapel Borough, **Allegheny County**. No additional discharges. The application was considered administratively complete on March 30, 2010. Application received March 10, 2010. Permit issued November 24, 2014.

**32841321 and NPDES No. PA0006874. Consol Mining Company LLC**, (CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317). To renew the permit for the O'Donnell No. 3 Mine in Washington Township, Indiana County and Plumcreek Township, **Armstrong**

**County** and related NPDES permit. No additional discharges. The application was considered administratively complete on November 29, 2012. Application received May 11, 2012. Permit issued November 26, 2014.

**32803712 and NPDES No. PA0092142. Consol Mining Company LLC**, (CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317). To transfer the permit and related NPDES permit for the Lewisville Recovery Plant in Young and Blacklick Townships, **Indiana County** from Keystone Coal Mining Corporation to Consol Mining Company LLC. No additional discharges. The application was considered administratively complete on January 27, 2014. Application received January 6, 2014. Permit issued December 4, 2014.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900*

**Permit No. 56060105 and NPDES No. PA0249971. AMFIRE Mining Co., LLC**, One Energy Place, Latrobe, PA 15650, commencement, operation and restoration of a bituminous surface and auger mine to change the land use from Forestland to Pastureland in Jenner Township, **Somerset County**, affecting 120.1 acres. Receiving streams: unnamed tributaries to/and Quemahoning Reservoir to the Stoney Creek River to the Conemaugh river classified for the following uses: cold water fisheries. The first downstream potable water supply intake from the point of discharge is Cambria-Somerset Authority. Application received: June 27, 2014. Permit issued: December 2, 2014.

**Permit No. 56070107 and NPDES No. PA0262382. Fieg Brothers**, 3070 Stoystown Road, Stoystown, PA 15563, transfer of an existing bituminous surface and auger mine from Rosebud Mining Co., 1117 Shaw Mines Road, Meyersdale, PA 15552 located in Brothersvalley and Summit Townships, **Somerset County**, affecting 267.7 acres. Receiving streams: Piney Run, Buffalo Creek and Casselman River, classified for the following uses: cold water fishery and warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: March 14, 2014. Permit issued: November 24, 2014.

**Permit No. 56070107 and NPDES No. PA0262382. Fieg Brothers**, 3070 Stoystown Road, Stoystown, PA 15563, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Brothersvalley and Summit Townships, **Somerset County**, affecting 267.7 acres. Receiving streams: Piney Run, Buffalo Creek and Casselman River, classified for the following uses: cold water fishery and warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: March 14, 2014. Permit issued: November 24, 2014.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200*

**17030110. Swisher Contracting, Inc.** (P. O. Box 1223, Clearfield, PA 16830). Permit renewal for reclamation only to an existing bituminous surface and auger mine located in Lawrence Township, **Clearfield County** affecting 116.8 acres. Receiving stream(s): Unnamed Tributary to Montgomery Creek and Unnamed Tributary to West Branch Susquehanna River classified for the following use(s): CWF. There are no potable water supply intakes within 10 miles downstream. Application received: July 23, 2014. Permit issued: December 3, 2014.

**17020107. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650). Permit renewal for reclamation only to an existing bituminous surface mine

located in Lawrence Township, **Clearfield County** affecting 112.0 acres. Receiving stream(s): Unnamed Tributaries to the West Branch Susquehanna River classified for the following use(s): CWF. There are no potable water supply intakes within 10 miles downstream. Application received: August 4, 2014. Permit issued: December 3, 2014.

*New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500*

**26-13-01 and NPDES Permit No. PA0252425. Fayette Coal & Coke, Inc.** (195 Enterprise Lane, Connellsville, PA 15425). Government Financed Construction Contract issued for reclamation project to reclaim abandoned mine lands, located in Franklin Township, **Fayette County**, affecting 45.9 acres. Receiving streams: unnamed tributaries to Bolden Run. Application received: March 21, 2014. Permit issued: November 26, 2014.

*Noncoal Permits Issued*

*Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**25112802. Raymond D. Showman & Sons, Inc.** (12851 Sharp Road, Edinboro, PA 16412). Final bond release for a small industrial minerals surface mine in LeBoeuf Township, **Erie County**. Restoration of 5.0 acres completed. Receiving streams: French Creek. Application Received: September 18, 2014. Final bond release approved: November 20, 2014.

*New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500*

**26980601 and NPDES Permit No. PA0202193. Hanson Aggregates BMC, Inc.** (2200 Springfield Pike, Connellsville, PA 15425-9503). Permit revision issued to add 93.7 acres of additional underground mining to an existing large noncoal surface mine, located in Bullsken Township, **Fayette County**, affecting 808.1 acres. Receiving streams: Breakneck Run, unnamed tributaries to Polecat Hollow Run and Breakneck Run. Revision application received: February 12, 2014. Permit issued: November 25, 2014.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**Permit No. 6575SM2A2C3. Eureka Stone Quarry, Inc.**, (PO Box 249, Chalfont, PA 18914), boundary correction of an existing quarry operation in Hamilton Township, **Monroe County** affecting 118.6 acres, receiving stream: tributary to McMichael Creek. Application received: June 8, 2010. Correction issued: December 4, 2014.

**ACTIONS ON BLASTING ACTIVITY APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

*Blasting Permits Issued*

*Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191*

**43144001. Hal D. Lilley** (8323 Oxbow Road, North East, PA 16428) Blasting activity permit for demolition of a grain silo in Pine Township, **Mercer County**. The blasting activity permit expires on April 16, 2015. Permit Issued: November 10, 2014.

**42144003. Minard Run Oil Company** (609 South Ave., P.O. Box 18, Bradford, PA 16701-3977) Blasting activity permit for well pad development and road maintenance in Hamilton Township, **McKean County**. This blasting activity permit expires on July 1, 2015. Permit Issued: November 10, 2014.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118*

**Permit No. 22144112. Hayduk Enterprises, Inc.**, (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Ankiewicz Pump Sewage Station in Susquehanna Township, **Dauphin County** with an expiration date of March 31, 2015. Permit issued: December 2, 2014.

**Permit No. 45144105. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for Castle Rock Acres in Middle Smithfield Township, **Monroe County** with an expiration date of December 31, 2015. Permit issued: December 2, 2014.

**Permit No. 46144004. Explo-Craft, Inc.**, (PO Box 1332, West Chester, PA 19380), construction blasting for 600 Righters Ferry Road sanitary and storm sewer lines in Lower Merion Township, **Montgomery County** with an expiration date of November 1, 2015. Permit issued: December 5, 2014.

**Permit No. 36144166. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Traditions of America in Warwick Township, **Lancaster County** with an expiration date of December 30, 2015. Permit issued: December 5, 2014.

**Permit No. 38144118. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Nolt Services waste pit in Millcreek Township, **Lebanon County** with an expiration date of December 30, 2014. Permit issued: December 5, 2014.

**Permit No. 48144110. Schlouch, Inc.**, (P.O. Box 69, Blandon, PA 19510), construction blasting for Lehigh Valley East 2 Lower Nazareth Township, **Northampton County** with an expiration date of December 2, 2015. Permit issued: December 5, 2014.

**Permit No. 58144182. Meshoppen Blasting, Inc.**, (P.O. Box 127, Meshoppen, PA 18630), construction blasting for SWN NR 2 pad access road in Oakland Township, **Susquehanna County** with an expiration date of November 24, 2015. Permit issued: December 5, 2014.

**Permit No. 58144183. Midstream Explosives, LLC**, (289 Southside Drive, Newville, PA 17241), construction blasting for Reynold Alford Pipeline in Brooklyn Township, **Susquehanna County** with an expiration date of November 25, 2015. Permit issued: December 5, 2014.

**Permit No. 58144184. DW Drilling & Blasting**, (9990 Coconut Road, Bonita Springs, FL 34135), construction blasting for Wright Gas Pad, Tank Pad and Access Road in Bridgewater Township, **Susquehanna County** with an expiration date of November 25, 2015. Permit issued: December 5, 2014.

**FEDERAL WATER POLLUTION CONTROL ACT SECTION 401**

The Department has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law and Notice of Final Action for Certification under section 401 of the FWPCA.**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued:*

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

*Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-1915, Telephone 570-826-2511.*

**E48-429. Valley Industrial Properties, LLC, P. O. Box 143, Orefield, PA 18069. East Bangor Borough, Northampton County, Army Corps of Engineers Philadelphia District.**

To fill an existing/abandoned 2.0 acre water-filled slate quarry for the purpose of eliminating a safety hazard and preparing site for potential future development. The project is located at 2 Capital Boulevard, approximately 0.4 mile northeast of the intersection of Capital Boulevard and West Central Avenue (State Route 512) (Stroudsburg, PA Quadrangle Latitude: 40°52'55"; Longitude: -75°11'21"). Subbasin: 1E

*Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636*

**E14-556. Henry Beiler, 4712 Penns Valley Road, Spring Mills, PA 16875-8503. Shady Meadow School in**

**Penn Township, Centre County, ACOE Baltimore District (Madisonburg, PA Quadrangle N: 40° 53' 11.3"; W: -77° 30' 15.8").**

To construct and maintain 4-foot diameter by 20-foot long culvert with the invert depressed 12-inches into the streambed, having field stone wingwalls in an unnamed intermittent tributary to Elk Creek to provide crossing of a new shale road to a parochial school located 850 ft. west of the intersection of Smithtown Gap Road and Mt Lodge Lane. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

*Southwest Region: Waterways and Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E02-1697. Pennsylvania Turnpike Commission, P.O. Box 67676, Harrisburg, PA 17106-7676; Indiana Township, Allegheny County; ACOE Pittsburgh District.**

Has been given consent to:

1. Relocate and reconstruct approximately 390' of unnamed tributary (UNT) 23 to Cedar Run (CWF), approximately 159' of which is currently enclosed within an existing 30'CPP, as 344' of open watercourse;

2. To place and maintain fill in approximately 358' of UNT-23A to Cedar Run (CWF) and 0.04 acre of PEM and PSS wetlands;

for the purposes of widening approximately 660' of the PA Turnpike (a.k.a. Interstate 70/76), replacing the bridge that carries State Route (SR) 1013 (a.k.a. Saxonburg Boulevard) over this portion of the PA Turnpike, and constructing associated stormwater management facilities. This project will also permanently affect approximately 80' of the right descending stream bank of Cedar Run (CWF), and will temporarily impact 8' of UNT-23 and 0.02 acre of wetlands. This project is one (1) of eight (8) subprojects of a larger project that will widen the PA Turnpike from mile post (MP) 39 to 47 (a.k.a. the PA Turnpike Commission 40-48 Reconstruction Project). This mainline reconstruction project will widen the PA Turnpike from four (4) lanes to six (6) lanes, and will widen the median. Some of the other subprojects have already received separate Water Obstruction and Encroachment Permits (WO&EP #E02-1651, #E02-1669, #E02-1681 and GP070211202); while additional applications for WO&EPs are anticipated for future subprojects that are associated with the larger mainline reconstruction project. The mitigation for the 0.04 acre of wetland impacts is included in permit #E02-1681. The proposed stream impacts will be compensated for through 406 linear feet of channel reconstruction, daylighting of a culverted stream segment, and riparian plantings along the unnamed tributary (UNT) 23 and unnamed tributary (UNT) 23A to Cedar Run. This subproject (a.k.a. the SR 1013/Saxonburg Boulevard bridge replacement over the PA Turnpike) is located at MP 43.13 of the PA Turnpike (Glenshaw, PA USGS topographic quadrangle map, Latitude: 40°35'14"; Longitude: -79°52'45"), in Indiana Township, Allegheny County.

**E03-461. Pennsylvania Department of Transportation—District 10-0, 2550 Oakland Avenue, Indiana, PA 15701; Bethel Township, Armstrong County; ACOE Pittsburgh District.**

Has been given consent to:

Remove the existing SR 2029 two lane, 41 foot wide by 14.5 foot long single span bridge having a minimum underclearance of 7.5 feet; construct and maintain adjacent to and downstream a replacement two lane 16 foot

span by 93.7 foot long open bottom arch culvert having a minimum underclearance of 8.0 feet in Taylor Run (WWF) with a drainage area of 2.95 square miles; fill and maintain a 761 ft long section of Taylor Run beginning at the bridge replacement; construct and maintain a relocated 664 ft long open channel of Taylor Run with a drainage area of 4 square miles; fill and maintain a 30 ft long section of Spur Run (WWF) tributary to the to be relocated Taylor Run section with a drainage area of 1 square mile; and construct and maintain a relocation of 134 ft of Spur Run needed to reconnect with the to be relocated Taylor Run section.

In addition install and maintain road associated stormwater outfalls; fill and maintain a 52 ft long section of an ephemeral UNT to Taylor Run (WWF) with drainage areas less than 100 acres and construct and maintain a relocated 35 ft long open channel of UNT to Taylor Run; temporarily impact 1,068 feet of stream for construction of the new structure and stream relocations; and provide onsite stream mitigation as part of the relocation of Taylor Run.

This project is associated with the SR 2029, Logansport Road relocation and improvement project with these encroachments extending south of the SR 66 intersection with SR2029, Logansport Road and just north of the intersection with SR2030, Kelly Station Road in Bethel

Township, Armstrong County (Leechburg PA Quadrangle, beginning North 13.9. inches and West 7.7 inches; Latitude 40° 42' 6" and Longitude -79° 33' 20"; to North 14.1 inches and West 8.2 inches; Latitude 40° 42' 9" and Longitude -79° 33' 31").

*Northwest Region: Oil and Gas Program Manager, 230 Chestnut Street, Meadville, PA 16335; 814-332-6860*

This project was previously published with an incorrect Permit Number and is being republished to provide the corrected information.

**E42-08-013, NFG Midstream Clermont, LLC**, 6363 Main Street, Williamsville, NY 14221-5855. Clermont Phase 2 North West (McKean), in Jones Township, **Elk County**, Army Corps of Engineers Pittsburgh District (Glen Hazel, Wildwood Fire Tower, PA Quadrangle N: 41° 36' 02"; W: -78° 32' 34").

The applicant proposes to construct and maintain approximately 7.8 miles of two (2) 16 inch and 8 inch, natural gas pipeline located in Jones Township, Elk County and Sergeant Township, McKean County. The proposed pipeline will connect Seneca Resources Corporation's D08-Z Well Pad to E08-I and E08-J Well Pads. The water obstructions and encroachments in the McKean County portion of the project are described below:

To construct and maintain:

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude/ Longitude</i>
1	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a UNT to Straight Creek (EV) having 78 linear feet of temporary stream impact.	41° 36' 11" -78° 28' 0"
2	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross Straight Creek (EV) having 69 linear feet of temporary stream impact.	41° 36' 12" -78° 28' 0"
3	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a UNT to Straight Creek (EV) having 65 linear feet of temporary stream impact.	41° 36' 12" -78° 28' 0"
4	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross an North Fork Straight Creek (EV) having 73 linear feet of temporary stream impact.	41° 36' 53" -78° 28' 50"
5	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a palustrine emergent (PEM) wetland having 3,428 square feet of temporary wetland impact.	41° 36' 27" -78° 28' 27"
6	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a palustrine emergent (PEM) EV wetland having 9,154 square feet of temporary wetland impact.	41° 36' 30" -78° 28' 36"
7	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a palustrine emergent (PEM) EV wetland having 1,916 square feet of temporary wetland impact.	41° 36' 32" -78° 28' 43"
8	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a palustrine emergent (PEM) EV wetland having 8,822 square feet of temporary wetland impact.	41° 36' 35" -78° 28' 45"
9	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a palustrine emergent (PEM) wetland having 5,381 square feet of temporary wetland impact.	41° 36' 51" -78° 28' 49"
10	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a palustrine emergent (PEM) EV wetland having 3,155 square feet of temporary wetland impact.	41° 36' 53" -78° 28' 50"
11	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a palustrine emergent (PEM) wetland having 548 square feet of temporary wetland impact.	41° 37' 01" -78° 28' 52"

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude/ Longitude</i>
12	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a palustrine emergent (PEM) wetland having 2,628 square feet of temporary wetland impact.	41° 37' 03" -78° 28' 53"
13	Two (2) 16" diameter natural gas pipelines with associated right-of-way and a temporary road crossing to cross a palustrine emergent (PEM) wetland having 7,819 square feet of temporary wetland impact.	41° 37' 05" -78° 28' 53"

In McKean County, the project will result in a total of 285 linear feet of temporary stream impacts and .98 acre of temporary wetland impacts from utility line and road crossings.

*District Oil and Gas Operations: Eastern Oil & Gas District, 208 West Third Street, Suite 101, Williamsport, PA 17701*

**E4129-089 Anadarko E&P Onshore LLC**, 33 West Third Street, Suite 200, Williamsport, PA 17701, McIntyre Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain:

1) a surface water withdrawal impacting 4,313 square feet of Lycoming Creek (EV, MF) (Bodines, PA Quadrangle 41°29'06"N 76°58'11"W). The proposed withdrawal will include two intake screens buried beneath the stream bed;

2) two 6-inch water lines and a timber mat bridge impacting 337 square feet of palustrine emergent (PEM) wetland (Bodines, PA Quadrangle 41°14'22"N 76°36'13"W).

The project will result in 100 linear feet of stream impact and 0.01 acre of wetland impact all for the purpose of obtaining water for use to develop multiple Marcellus Shale wells.

**E5929-045: SWEPI LP**, 2100 Georgetown Drive, Suite 400, Sewickley, PA 15143, Sullivan Township, **Tioga County**, ACOE Baltimore District.

To construct, operate, and maintain a permanent access road impacting 3,050 square foot of a palustrine forested (PFO) wetland (Mansfield, PA Quadrangle 41°47'58"N 76°58'08"W).

This application is in response to a Notice of Violation from well pad and site access construction that resulted in approximately 0.91 acre of permanent wetland impacts. The applicant has implemented 1.77 acre of wetland mitigation on site and 1.87 acre will be created at an offsite location along with 1,415 linear feet of streambank fencing (Mansfield, PA Quadrangle 41°48'12"N 76°58'05"W) in Sullivan Township, Tioga County.

#### **EROSION AND SEDIMENT CONTROL**

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropri-

ate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

*Northwest Region: Oil and Gas Program Manager, 230 Chestnut St., Meadville, PA 16335*

ESCGP-2 #ESG14-019-0062—Cratty A/B Well Pad  
Applicant XTO Energy, Inc  
Contact Ms. Melissa Breitenbach  
Address 502 Keystone Drive  
City Warrendale State PA Zip Code 15086  
County Butler Township(s) Franklin(s)  
Receiving Stream(s) and Classification(s) Shannon Run (HQ-CWF) and Mulligan Run (CWF)/Connoquenessing Watershed

ESCGP-2 #ESX14-085-0029—Delaware Hanna Well Pad  
Applicant Hilcorp Energy Co.  
Contact Ms. Stephanie McMurray  
Address 1201 Louisiana Street, Suite 1400  
City Houston State TX Zip Code 77002  
County Mercer Township(s) Delaware  
Receiving Stream(s) and Classification(s) UNT to Shenango River, WWF; Mill Run, TSF, Secondary Receiving water Shenango River, Otter Creek.

ESCGP-2 #ESG14-019-0051—McCall Well Pad  
Applicant XTO Energy, Inc  
Contact Ms. Melissa Breitenbach  
Address 502 Keystone Drive  
City Warrendale State PA Zip Code 15086  
County Butler Township(s) Donegal(s)  
Receiving Stream(s) and Classification(s) Buffalo Creek, Buffalo Creek Watershed, Allegheny River HQ-CWF

ESCGP-2 #ESX13-085-0034—Yoder to Regis Pipeline  
Applicant Halcon Field Services, LLC  
Contact Rich DiMichele  
Address 2984 Kirila Boulevard  
City Hermitage State PA Zip Code 16148  
County Mercer Township(s) West Salem, Hempfield, Otter Creek(s)  
Receiving Stream(s) and Classification(s) Big Run, UNT to Big Run, Shenango River, UNT to Shenango River, Mathy Run, UNT to Otter Creek TSF/WWF

ESCGP-2 #ESX14-019-0064—Guiher Centralized Fresh-water Impoundment

Applicant XTO Energy Inc  
Contact Ms. Melissa Breitenbach  
Address 502 Keystone Drive  
City Warrendale State PA Zip Code 15086  
County Butler Township(s) Connoquenessing(s)  
Receiving Stream(s) and Classification(s) UNT to Mulligan Run; UNT to Semiconon Run/Little Connoquenessing Creek-Connoquenessing Creek

*Eastern Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701*

ESCGP-2 # ESX29-015-14-0086  
Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins  
Address 14 Chesapeake Lane  
City, State, Zip Sayre, PA 18840  
County Bradford County  
Township(s) Troy Township  
Receiving Stream(s) and Classification(s) Mud Creek (TSF/MF);  
Secondary: Sugar Creek (TSF/MF)

ESCGP-2 # ESX29-015-14-0085  
Applicant Name Angelina Gathering Company, LLC  
Contact Person Danny Spaulding  
Address 2350 N Sam Houston Pkwy E, Ste 125  
City, State, Zip Houston, TX 77032  
County Bradford County  
Township(s) Herrick Township  
Receiving Stream(s) and Classification(s) UNT to Cold Water Creek (WWF/MF);  
Secondary: Cold Water Creek

ESCGP-2 # ESX29-115-14-0090  
Applicant Name Southwestern Energy Production Company  
Contact Person Dave Sweeley  
Address 917 State Route 92 North  
City, State, Zip Tunkhannock, PA 18657  
County Susquehanna County  
Township(s) Jackson Township  
Receiving Stream(s) and Classification(s) Salt Lick Creek (HQ, CWF/MF)

ESCGP-2 # ESX29-015-14-0087  
Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins  
Address 14 Chesapeake Lane  
City, State, Zip Sayre, PA 18840  
County Bradford County  
Township(s) Terry Township  
Receiving Stream(s) and Classification(s) UNT to Sugar Run Creek (CWF/MF);  
Secondary: Sugar Run Creek (CWF/MF)

ESCGP-2 # ESX11-015-0129 (01)  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Joseph Katruska  
Address 50 Pennwood Place  
City, State, Zip Warrendale, PA 15086  
County Bradford County  
Township(s) Columbia Township  
Receiving Stream(s) and Classification(s) UNT to North Branch Sugar Creek (TSF), North Branch Sugar Creek (TSF)

ESCGP-2 # ESX10-015-0303 (01)  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Joseph Katruska  
Address 50 Pennwood Place  
City, State, Zip Warrendale, PA 15086

County Bradford County  
Township(s) Pike Township  
Receiving Stream(s) and Classification(s) Gaylord Creek (CWF/MF)

ESCGP-2 # ESG29-081-14-0038  
Applicant Name Range Resources—Appalachia, LLC  
Contact Person Mary C. Patton  
Address 100 Throckmorton Street, Suite 1200  
City, State, Zip Ft. Worth, TX 76102  
County Lycoming County  
Township(s) Lewis Township  
Receiving Stream(s) and Classification(s) Wolf Run, UNT Wolf Run (HQ);  
Secondary: Lycoming Creek (EV)

ESCGP-2 # ESX10-015-0373 (01)  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Joseph Katruska  
Address 50 Pennwood Place  
City, State, Zip Warrendale, PA 15086  
County Bradford County  
Township(s) Windham Township  
Receiving Stream(s) and Classification(s) UNT to Wysox Creek (CWF/MF)

ESCGP-2 # ESX10-015-0118 (01)  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Joseph Katruska  
Address 50 Pennwood Place  
City, State, Zip Warrendale, PA 15086  
County Bradford County  
Township(s) Columbia Township  
Receiving Stream(s) and Classification(s) UNT to North Branch Sugar Creek (TSF/MF)

ESCGP-2 # ESX09-015-0083(1)  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Joseph Katruska  
Address 50 Pennwood Place  
City, State, Zip Warrendale, PA 15086  
County Bradford County  
Township(s) Wells Township  
Receiving Stream(s) and Classification(s) UNT to Seeley Creek (CWF/MF)

ESCGP-2 # ESX29-015-14-0088  
Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins  
Address 14 Chesapeake Lane  
City, State, Zip Sayre, PA 18840  
County Bradford County  
Township(s) Tuscarora Township  
Receiving Stream(s) and Classification(s) Mill Creek (CWF/MF); Tuscarora Creek (CWF/MF)

ESCGP-2 # ESX10-015-0166 (01)  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Joseph Katruska  
Address 50 Pennwood Place  
City, State, Zip Warrendale, PA 15086  
County Bradford County  
Township(s) Pike Township  
Receiving Stream(s) and Classification(s) UNT to Rockwell Creek (CWF/MF)

ESCGP-2 # ESX10-015-0319 (01)  
Applicant Name Talisman Energy USA, Inc.  
Contact Person Joseph Katruska  
Address 50 Pennwood Place  
City, State, Zip Warrendale, PA 15086  
County Bradford County  
Township(s) Warren Township  
Receiving Stream(s) and Classification(s) Pendleton Creek (CWF/MF)



ESCGP-2 # ESX11-015-0027 (01)  
 Applicant Name Talisman Energy USA, Inc.  
 Contact Person Joseph Katruska  
 Address 50 Pennwood Place  
 City, State, Zip Warrendale, PA 15086  
 County Bradford County  
 Township(s) Windham Township  
 Receiving Stream(s) and Classification(s) UNT to Wap-  
 pasening Creek (CWF), Cold Brook (CWF)

ESCGP-2 # ESX11-117-0024 (01)  
 Applicant Name Talisman Energy USA, Inc.  
 Contact Person Joseph Katruska  
 Address 50 Pennwood Place  
 City, State, Zip Warrendale, PA 15086  
 County Tioga County  
 Township(s) Ward Township  
 Receiving Stream(s) and Classification(s) Tioga River  
 (CWF)

ESCGP-2 # ESG29-113-14-0026  
 Applicant Name Chief Oil & Gas, LLC  
 Contact Person Jeffrey Deegan  
 Address 6051 Wallace Road Ext., Suite 300  
 City, State, Zip Wexford, PA 15090  
 County Sullivan County  
 Township(s) Elkland Township  
 Receiving Stream(s) and Classification(s) UNT Elk Creek  
 (EV/MF);  
 Secondary: Loyalsock Creek

ESCGP-2 # ESX10-015-0357 (01)  
 Applicant Name Talisman Energy USA, Inc.  
 Contact Person Joseph Katruska  
 Address 50 Pennwood Place  
 City, State, Zip Warrendale, PA 15086  
 County Bradford County  
 Township(s) Warren Township  
 Receiving Stream(s) and Classification(s) UNT to Prince  
 Hollow Run (CWF/MF), Bobcock Run (CWF/MF)

ESCGP-2 # ESX11-015-0006 (01)  
 Applicant Name Talisman Energy USA, Inc.  
 Contact Person Joseph Katruska  
 Address 50 Pennwood Place  
 City, State, Zip Warrendale, PA 15086  
 County Bradford County  
 Township(s) Windham Township  
 Receiving Stream(s) and Classification(s) Parks Creek  
 (CWF), West Branch Parks Creek (CWF)

*Southwest Region: Oil & Gas Program Mgr: 400 Water-  
 front Dr. Pittsburgh, PA*

ESCGP-2 No.: ESX14-129-0002 Major Revision  
 Applicant Name: Campbell Oil & Gas Inc  
 Contact Person Erik Wood  
 Address: PO Box 278  
 City: Indiana State: PA Zip Code: 15701  
 County: Westmoreland Township: Derry  
 Receiving Stream (s) and Classifications: Trib 44687 to  
 Stony Run/Conemaugh Watershed; Trib 44694 to Stony  
 Run/Conemaugh Watershed; Trib 44696 to Stony Run/  
 Conemaugh Watershed; Other CWF; Siltation-Impaired

ESCGP-2 No.: ESX14-129-0008  
 Applicant Name: Apex Energy LLC  
 Contact Person: Mark Rothenberg  
 Address: 6041 Wallace Road Ext Suite 100  
 City: Wexford State: PA Zip Code: 15090  
 County: Westmoreland Township(s): Penn  
 Receiving Stream(s) and Classifications: Turtle Creek,  
 Brush Creek, UNT to Turtle Creek, UNT to Brush  
 Creek; Other TSF

ESCGP-2 No.: ESG14-059-0065  
 Applicant Name: Chevron Appalachia LLC  
 Contact Person: Alex Genovese  
 Address: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478  
 County: Greene Township(s): Center  
 Receiving Stream(s) and Classifications: Clear Run, UNT  
 to Clear Run, and UNT to Rush Run/Tenmile Creek  
 Watershed; HQ

ESCGP-2 No.: ESX14-125-0087  
 Applicant Name: Rice Poseidon Midstream LLC  
 Contact Person: Kyle Shirey  
 Address: 400 Woodcliff Drive  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Washington Township(s): North Bethlehem  
 Receiving Stream(s) and Classifications: South Branch  
 Pigeon CK, UNT South Branch Pigeon CK/Middle  
 Monongahela River; Other WWF

ESCGP-2 No.: ESX14-007-0014  
 Applicant Name: Abarta Oil & Gas Company Inc  
 Contact Person: John J Emmerling  
 Address: 200 Alpha Drive  
 City: Pittsburgh State: PA Zip Code: 15238  
 COUNTY Beaver Township(s): Franklin  
 Receiving Stream(s) and Classifications: UNTs to Camp  
 Run (WWF); UNTs to Connoquenessing Creek (WWF);  
 Slippery Rock Creek Watershed; Other WWF

ESCGP-2 No.: ESX14-051-0014  
 Applicant Name: Chevron Appalachia LLC  
 Contact Person: Alex Genovese  
 Address: 800 Mountain View Drive  
 City: Smithfield State: PA Zip Code: 15478  
 County: Fayette Township(s): German  
 Receiving Stream(s) and Classifications: UNTs to Dunlap  
 Creek/Middle Monongahela River Watershed; Other  
 WWF

ESCGP-2 No.: ESG14-059-0057  
 Applicant Name: Vantage Energy Appalachia LLC  
 Contact Person: John J Moran Jr  
 Address: 116 Inverness Drive East Suite 107  
 City: Englewood State: CO Zip Code 80112  
 County: Greene Township(s): Gray  
 Receiving Stream(s) and Classifications: UNT to Grays  
 Fork/Tenmile Creek; Grays Fork/Tenmile Creek; HQ

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## SPECIAL NOTICES

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### Tenaska Pennsylvania Partners, LLC Notice of Joint Public Hearing for the Air Quality Plan Approval and NPDES Permit

**Air Quality Plan Approval 65-00990C and NPDES  
 Permit PA0254771:** Tenaska Pennsylvania Partners,  
 LLC (1044 N115th Street, Suite 400, Omaha, NE 68154)  
 Notice is hereby given pursuant to 25 Pa. Code §§ 127.44,  
 127.45, 127.48, 92a.82 and 92a.83 that the Pennsylvania  
 Department of Environmental Protection (DEP) will hold a  
 public hearing on Wednesday January 21, 2015, from  
 7:00 to 8:00 p.m. at South Huntingdon Township  
 Turkeytown Volunteer Fire Department at 90 Supervisor  
 Drive West Newton, PA 15089. There will be an open  
 house immediately preceding the public hearing begin-  
 ning at 6:00 p.m.

The hearing is to take testimony concerning the DEP's  
 intent to issue plan approval no. 65-00990C and NPDES  
 Permit PA0254771 to Tenaska Pennsylvania Partners,  
 LLC (Tenaska) for the construction, temporary operation  
 (plan approval), the discharge of treated cooling tower  
 blowdown, low volume wastewater and stormwater to the

Youghiogheny River (NPDES) from a proposed 930—1,065 MW combined cycle natural gas-fired electric generating facility known as the Westmoreland Generating Station in South Huntingdon Township, Westmoreland County. In addition, the NPDES permit authorizes discharges of stormwater from parking lots and vegetated areas to Barren Run and an Unnamed Tributary to the Youghiogheny River. The DEP published a separate notice of intent to issue this plan approval in today's *Pennsylvania Bulletin* to allow for public comment regarding this proposal. In accordance with 25 Pa. Code § 92a.82 the Department published a separate notice of the draft NPDES permit in the *Pennsylvania Bulletin* on March 8, 2014 and again on July 12, 2014 to allow for public comment regarding this proposal. Appointments may be made to review the DEP files on this case by calling the File Review Coordinator at 412-442-4000.

In accordance with 25 Pa. Code §§ 127.48, 127.49, 92a.82 and 92a.83 the DEP will accept and record testimony concerning Tenaska's applications. Persons wishing to present testimony at the hearing should contact Community Relations Coordinator John Poister at 412-442-4203 before 3:00 p.m. on January 21, 2015. Individuals who do not register may also present testimony the day of the hearing. Organizations are encouraged to designate one witness to present testimony on behalf of the organization. Persons unable to attend the hearing may submit three copies of a written statement and exhibits within 10 days thereafter to the Pennsylvania Department of Environmental Protection, Air Quality Program or Clean Water Program, 400 Waterfront Drive, Pittsburgh, PA, 15222. Written submittals must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval (PA-65-00990C) or NPDES Permit (PA0254771) and a concise statement of the objections to the plan approval or NPDES Permit issuance and the relevant facts upon which the objections are based.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act of 1990 should contact John Poister or the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how DEP may accommodate your needs.

**Permit for Stormwater Discharges Associated with Construction Activities**

*Cambria District Mining Office: 286 Industrial Park*

*Road, Ebensburg, PA 15931, 814-472-1900*

**PAG-2-27-56-13-001, Ridge Energy Company, Inc.**, 265 Swamp Road, Clymer, PA 15728. General NPDES Permit for stormwater discharges associated with construction activities on GFCC Permit No. 56-13-01 in Shade Township, **Somerset County**. Receiving streams: dark shade river classified for the following uses: warm water fishery. There are no potable water supply intakes within 10 miles downstream. Notice of Intent for coverage received: March 21, 2014. Coverage approved: December 2, 2014.

**Request for Comments on the Proposed Total Maximum Daily Load (TMDL) Developed for the Portion of the Anderson Creek Watershed Affected by Nutrient Impairment (Subbasin 2—Kratzer and Bilger Runs); Grampian Township, Clearfield County**

The Department of Environmental Protection will accept comments as of December 20, 2014 for the proposed TMDL developed for the portion of the Anderson Creek watershed affected by nutrient impairment, Grampian Township, Clearfield County, PA. This TMDL was established in accordance with the requirements of Section 303(d) of the Clean Water Act. The 2012 Pennsylvania Integrated Water Quality Monitoring and Assessment Report included impaired stream segments in this watershed. The listings of these waterbodies were due to aquatic impairments caused primarily by agricultural activities and some on-site wastewater (as of the 2003 TMDL report). There are currently no state or federal in-stream numerical water quality criteria for total phosphorus. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria.

This proposed TMDL sets allowable loadings within the specifically impaired stream segments of the portion of the Anderson Creek watershed (Subbasin 2 - Kratzer and Bilger Runs). The loading was allocated among the land uses of cropland, hay/pasture land, and associated transitional/disturbed land present in the watershed. Data used in establishing these TMDLs was generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University. The following table shows the estimated current loadings for the watershed. Overall load reductions necessary in order to meet the TMDLs are also identified.

**SUMMARY OF TMDL BASED LOAD REDUCTIONS IN SUBBASIN 2:**

<i>Pollutant</i>	<i>Existing Load (lbs./yr.)</i>	<i>Existing Load (lbs./day)</i>	<i>TMDL (lbs./yr.)</i>	<i>TMDL (lbs./day)</i>	<i>Percent Reduction</i>
Phosphorus	2,052.3	5.6	1,590.9	4.4	22%

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDLs and information on the TMDL program can be viewed on the Department's website ([www.dep.state.pa.us/watermanagement\\_apps/tmdl/](http://www.dep.state.pa.us/watermanagement_apps/tmdl/)). To request a copy of any of the proposed TMDLs, please contact:

Scott Alexander, Water Program Specialist  
Bureau of Point and Non-Point Source Management, Central Office  
Pennsylvania Department of Environmental Protection  
Rachel Carson State Office Building, Harrisburg, PA 17105  
Phone: 717-772-5670,  
e-mail: [salexander@pa.gov](mailto:salexander@pa.gov)

The Department will consider all comments in developing the final TMDLs, which will be submitted to EPA for approval. Written comments will be accepted at the above address and must be postmarked by 30 days after publication in the PA Bulletin.

### Department of Environmental Protection to Withdraw the Sediment and Nutrient TMDLs for Chickies Creek Watershed

Pennsylvania Department of Environmental Protection (DEP) intends to withdraw, subject to United States Environmental Protection Agency (EPA) approval, the established sediment and nutrient Total Maximum Daily Loads (TMDLs) for the Chickies Creek (aka Chiques Creek) watershed. DEP developed, and EPA approved, sediment and nutrient TMDLs for the Chickies Creek watershed on April 9, 2001. DEP will work with stakeholders and other agencies to develop an alternative pollutant reduction plan for the watershed.

The Rationale for Withdrawal document can be accessed through the DEP website (<http://www.dep.state.pa.us>), DEP keyword: TMDL. Select Chickies Creek TMDL by name.

Please direct any questions about the Chickies Creek TMDL withdrawal to Mr. Bill Brown at (717) 783-2951 or [willbrown@pa.gov](mailto:willbrown@pa.gov).

[Pa.B. Doc. No. 14-2628. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at [www.elibrary.dep.state.pa.us](http://www.elibrary.dep.state.pa.us). The "Technical Guidance Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Technical Guidance Draft Documents" heading is the link to the Department's draft technical guidance documents.

#### Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### Interim Final Technical Guidance Document

**DEP ID:** 310-2135-001. **Title:** Implementation Plan for Act 162 of 2014. **Description:** This interim final policy provides guidance on the Department's interpretation of Act 162 of 2014, related to regulatory requirements for riparian buffers or riparian forest buffers. This interim final policy provides the framework, rationale and requirements regarding riparian buffers and riparian forest buffers for applicants proposing projects that require NPDES permits for Discharges Associated with Construction Activities within 150 feet of a special protection (High Quality and Exceptional Value) river, stream, creek, lake, pond or reservoir.

**Written Comments:** Interested persons may submit written comments on this Interim Final technical guidance document by February 18, 2015. Comments submitted by facsimile will not be accepted. Comments, including comments submitted by e-mail must include the originator's name and address. Written comments should be submitted to Jennifer Orr, NPDES Construction and Erosion Control, Bureau of Waterways Engineering and Wetlands,

Rachel Carson State Office Building, P. O. Box 8460, Harrisburg, PA 17105-8460, [ep-102regulations@pa.gov](mailto:ep-102regulations@pa.gov).

**Contact:** Jennifer Orr, (717) 787-3411, [ep-102regulations@pa.gov](mailto:ep-102regulations@pa.gov).

**Effective Date:** December 20, 2014

**Draft Technical Guidance Document: Substantive Revision**

**DEP ID:** 258-2182-773. **Title:** Management of Fill. **Description:** This policy provides the Department's procedures for determining whether material is clean fill or regulated fill. Regulated fill may not be used unless a Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) permit is secured by the individual or entity using the regulated fill.

**Written Comments:** Interested persons may submit written comments on this draft technical guidance document by February 18, 2015. Comments submitted by facsimile will not be accepted. Comments, including comments submitted by e-mail must include the originator's name and address. Written comments should be submitted to C. D. Vu, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 69170, Harrisburg, PA 17106-9170, [cvu@pa.gov](mailto:cvu@pa.gov).

**Contact:** C. D. Vu, (717) 787-7381, [cvu@pa.gov](mailto:cvu@pa.gov).

**Effective Date:** Upon publication as final in the *Pennsylvania Bulletin*.

DANA K. AUNKST,  
Acting Secretary

[Pa.B. Doc. No. 14-2629. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Riparian Buffer Amendment; Notice of Availability

The Clean Streams Law (act) (35 P. S. §§ 691.1—691.1001) was amended by the General Assembly on October 16, 2014, and signed into law by Governor Corbett on October 22, 2014 (P. L. 2600, No. 162). Act 162 specifically amended section 402 of the act (35 P. S. § 691.402) to add subsection (c). This new subsection is limited to and addresses riparian buffer requirements in 25 Pa. Code Chapter 102 (relating to erosion and sediment control). The amendments pertain to certain National Pollutant Discharge Elimination System (NPDES) applications administered by the Department of Environmental Protection (Department). The Department interprets Act 162 as being intended to provide flexibility to the building industry subject to the mandatory riparian buffer requirements in 25 Pa. Code Chapter 102. Act 162

is effective on December 22, 2014. The amendment does not otherwise expressly alter the regulatory framework of 25 Pa. Code Chapter 102 or eliminate the use of riparian buffers or riparian forest buffers as a best management practice (BMP).

Section 402(c)(1) of the act specifies that only activities requiring NPDES Permits for Stormwater Discharges Associated with Construction Activities are eligible for the alternative buffer requirement provided in section 402(c) of the act. This provision in Act 162 does not eliminate the use of the riparian buffer requirements for projects regulated under 25 Pa. Code Chapter 102, but rather provides that applicants for an NPDES Permit for Stormwater Discharges Associated with Construction Activities have as an option to the riparian buffer or riparian forest buffer BMP, the use of alternative BMPs or design standards that meet the requirements of section 402(c)(1)(ii) of the act.

Act 162 does not apply to other types of permit authorizations required under 25 Pa. Code Chapter 102, such as State permit authorizations for timber harvesting, road maintenance or oil and gas activities (Erosion and Sediment Control Permits "E&S permits" or Erosion and Sediment Control General Permits, "ESCGPs").

The Department's interpretation of Act 162 referred to herein is not adjudication or a regulation. There is no intent on the part of the Department to give the contents of this notice, and the Department's guidance referred to in this notice, that weight or deference. This notice explains the framework within which the Department will exercise its administrative discretion in the future, and the Department reserves the discretion to deviate from that framework if circumstances warrant.

The Department is making several documents available to be utilized to implement Act 162 including:

- Implementation Plan for Act 162 of 2014 (DEP ID 310-2135-001).
- Frequently Asked Questions (FAQs) and Interim Final Technical Guidance Documents.

Notice of availability of the Implementation Plan for Act 162 of 2014 (DEP ID 310-2135-001) is being published separately from this notice at 44 Pa.B. 7954 (December 20, 2014). This Availability of Technical Guidance notice makes this Interim Final Policy available for use and provides for a 60-day public comment period. Consult that announcement for instructions on how to provide comment.

The public comment period for two additional interim final technical guidance documents, one dealing with the buffer equivalency demonstration (DEP ID 310-2135-002) and the other with buffer offsetting (DEP ID 310-2135-003), will be announced in the near future. The Department will invite public comments on these interim final technical guidance documents when notice of availability of these guidances is published.

Following the specified comment period for each interim final technical guidance document, the Department will review all submitted comments, prepare a comment and response document and the final documents package for these technical guidances. Availability of the final technical guidance documents will be announced in the *Pennsylvania Bulletin*.

The FAQs regarding Act 162 are available on the Department's web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Act 162).

DANA K. AUNKST,  
*Acting Secretary*

[Pa.B. Doc. No. 14-2630. Filed for public inspection December 19, 2014, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### Lease Retail Space to the Commonwealth Luzerne County

Proposals are invited to provide the Department of General Services with approximately 4,000 to 5,500 net usable square feet of retail space for the Liquor Control Board in the City of Hazleton, Luzerne County. For more information on SFP No. 94677, which is due on Friday, January 16, 2015, visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) or contact the Bureau of Real Estate at (717) 787-4394.

SHERI PHILLIPS,  
*Secretary*

[Pa.B. Doc. No. 14-2631. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Lease Retail Space to the Commonwealth Philadelphia County

Proposals are invited to provide the Department of General Services with approximately 12,000 to 14,000 net usable square feet of retail space for the Liquor Control Board in Philadelphia, Philadelphia County. For more information on SFP No. 94675, which is due on Friday, March 6, 2015, visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) or contact the Bureau of Real Estate at (717) 787-4394.

SHERI PHILLIPS,  
*Secretary*

[Pa.B. Doc. No. 14-2632. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Lease Retail Space to the Commonwealth Union County

Proposals are invited to provide the Department of General Services with 5,000 to 6,000 usable square feet of retail space for the Liquor Control Board in Lewisburg, Union County. For more information on SFP No. 94676, which is due on Friday, January 16, 2015, visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) or contact the Bureau of Real Estate at (717) 787-4394.

SHERI PHILLIPS,  
*Secretary*

[Pa.B. Doc. No. 14-2633. Filed for public inspection December 19, 2014, 9:00 a.m.]

# DEPARTMENT OF HEALTH

## Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facilities are seeking exceptions to 28 Pa. Code § 211.9(g) (relating to pharmacy services):

Cumberland Crossings Retirement Community  
1 Longsdorf Way  
Carlisle, PA 17013  
FAC ID # 016502

Hopkins Center  
8100 Washington Lane  
Wyncote, PA 19095  
FAC ID # 083202

The Meadows at Martins Run  
11 Martins Run  
Media, PA 19063-1057  
FAC ID # 390102

Reformed Presbyterian Home  
2344 Perrysville Avenue  
Pittsburgh, PA 15214  
FAC ID # 183002

St. Mary Center for Rehabilitation & Healthcare  
701 Lansdale Avenue  
Lansdale, PA 19446  
FAC ID # 451402

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Messiah Lifeways at Messiah Village  
100 Mount Allen Drive  
Mechanicsburg, PA 17055  
FAC ID # 910802

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.67(k) (relating to electric requirements for existing and new construction):

Cross Keys Village—The Brethren Home Community  
P. O. Box 128, 2990 Carlisle Pike  
New Oxford, PA 17350-0128  
FAC ID # 022502

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@pa.gov.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the address or phone number listed previously, or for speech and/or

hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service (800) 654-5984 (TT).

MICHAEL WOLF,  
*Secretary*

[Pa.B. Doc. No. 14-2634. Filed for public inspection December 19, 2014, 9:00 a.m.]

## Renal Disease Advisory Committee Meeting

The Renal Disease Advisory Committee, established by section 4 of the act of June 23, 1970 (P. L. 419, No. 140) (35 P. S. § 6204), will hold its quarterly public meeting on Friday, January 16, 2015, from 10 a.m. to 1 p.m. The purpose of the meeting is to discuss new and ongoing issues relating to treatment of chronic renal disease and the Department of Health's programs related to care and treatment. The meeting will be held in Conference Room 907, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120.

For additional information, or for persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Carolyn S. Cass, Director, Bureau of Family Health, Division of Child and Adult Health Services, 7th Floor East, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120, (717) 772-2762. For speech and/or hearing impaired persons call V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

This meeting is subject to cancellation without notice.

MICHAEL WOLF,  
*Secretary*

[Pa.B. Doc. No. 14-2635. Filed for public inspection December 19, 2014, 9:00 a.m.]

## Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program); Maximum Allowable Prices and Competitive Prices

### Maximum Allowable Prices and Competitive Prices for Type 1 Stores in Regular Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) (relating to selection criteria for authorization and reauthorization; and terms and conditions of participation) and 7 CFR 246.12 (relating to food delivery systems), the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 1 Stores in Regular Cost Counties.

#### Maximum Allowable Prices

Effective January 1, 2015, through March 31, 2015, the Maximum Allowable Prices the Department of Health will pay Type 1 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz.....	\$1.25
Beans/Peas—Dry—16 oz.....	\$2.18
Canned Fish—Pink Salmon.....	\$2.19

<i>Description</i>	<i>Maximum Allowable Price</i>
Canned Fish—Sardines . . . . .	\$1.50
Canned Fish—Tuna . . . . .	\$1.29
Cereal (per oz.) . . . . .	\$0.33
Cheese, 16 oz. . . . .	\$7.31
Eggs . . . . .	\$2.58
Gerber Infant Cereal—8 oz. . . . .	\$2.25
Infant Fruits, 100%—4 oz. . . . .	\$0.69
Infant Vegetables, 100%—4 oz. . . . .	\$0.69
Infant Meats, 100%—2.5 oz. . . . .	\$1.06
Juice—11.5/12 oz. . . . .	\$2.36
Juice—48 oz. . . . .	\$3.00
Juice—64 oz. . . . .	\$3.89
Kosher Cheese—16 oz. . . . .	\$8.40
Kosher Low Fat Milk—quart . . . . .	\$1.69
Kosher Low Fat Milk—1/2 gallon . . . . .	\$3.27
Kosher Whole Milk—quart . . . . .	\$1.80
Kosher Whole Milk—1/2 gallon . . . . .	\$3.37
Milk, Dry—9.6 oz. . . . .	\$4.27
Milk, Dry—25.6 oz. . . . .	\$9.40
Milk, Evaporated—12 oz. . . . .	\$1.43
Milk, Low Fat—quart . . . . .	\$1.36
Milk, Low Fat—1/2 gallon . . . . .	\$2.49
Milk, Low Fat Lactose Free—quart . . . . .	\$2.32
Milk, Low Fat Lactose Free—1/2 gallon . . . . .	\$3.89
Milk, Whole—quart . . . . .	\$1.45
Milk, Whole—1/2 gallon . . . . .	\$2.49
Milk, Whole Lactose Free—quart . . . . .	\$2.47
Milk, Whole Lactose Free—1/2 gallon . . . . .	\$3.79
Peanut Butter—16-18 oz. . . . .	\$3.29
Soy Beverage—Pacific Natural Foods 32 oz. . . . .	\$3.29
Soy Beverage—8th Continent 64 oz. . . . .	\$3.49
Tofu—16 oz. . . . .	\$2.57
Whole Grain—Bread, 16 oz. . . . .	\$3.49
Whole Grain—Bread, 24 oz. . . . .	\$3.95
Whole Grain—Brown Rice, 16 oz. . . . .	\$1.75
Whole Grain—Brown Rice, 24 oz. . . . .	\$3.32
Whole Grain—Oats, 16 oz. . . . .	\$2.44
Whole Grain—Oats, 24 oz. . . . .	\$5.39
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. . . . .	\$2.57
Boost RTF Formula—8 oz. . . . .	\$1.69
EnfaCare RTF Formula—32 oz. . . . .	\$7.25
EnfaCare w/Iron Powder Formula—12.8 oz. . . . .	\$16.54
Nutramigen Concentrate Formula—13 oz. . . . .	\$7.39
Nutramigen RTF Formula—32 oz. . . . .	\$9.60
Nutramigen w/Enflora Powder Formula— 12.6 oz. . . . .	\$24.50
Pediasure RTF Formula—8 oz. . . . .	\$1.92
Pediasure w/Fiber RTF Formula—8 oz. . . . .	\$1.99
Pediasure Sidekicks RTF Formula—8 oz. . . . .	\$1.85
Similac Advance Concentrate Formula—Blue— 13 oz. . . . .	\$4.95
Similac Advance RTF Formula—Blue—32 oz. . . . .	\$7.45
Similac Advance Powder Formula—Blue— 12.4 oz. . . . .	\$15.46
Similac Expert Care Alimentum RTF Formula— 32 oz. . . . .	\$9.59
Similac Expert Care Alimentum Powder Formula—16 oz. . . . .	\$27.99
Similac Expert Care for Diarrhea RTF Formula— 32 oz. . . . .	\$7.59
Similac Expert Care NeoSure RTF Formula— 32 oz. . . . .	\$7.89
Similac Expert Care NeoSure Powder Formula— 13.1 oz. . . . .	\$16.19

<i>Description</i>	<i>Maximum Allowable Price</i>
Similac Go & Grow Powder Milk Based Formula—Blue—1.38 lbs. . . . .	\$22.49
Similac Go & Grow Powder Soy Based Formula— Pink—1.38 lbs. . . . .	\$22.35
Similac for Spit Up RTF Formula—Green— 32 oz. . . . .	\$7.65
Similac for Spit Up Powder Formula—Green— 12.3 oz. . . . .	\$15.69
Similac for Spit Up Powder Formula—Green— 12.0 oz. . . . .	\$15.69
Similac Sensitive RTF Formula—Orange—32 oz. . . . .	\$7.29
Similac Sensitive Powder Formula—Orange— 12.6 oz. . . . .	\$15.39
Similac Sensitive Powder Formula—Orange— 12.0 oz. . . . .	\$15.39
Similac Soy Isomil Concentrate Formula—Pink— 13 oz. . . . .	\$5.11
Similac Soy Isomil RTF Formula—Pink—32 oz. . . . .	\$7.59
Similac Soy Isomil Powder Formula—Pink— 12.4 oz. . . . .	\$15.89
Similac Total Comfort Powder Formula—Purple— 12.6 oz. . . . .	\$16.09
Similac Total Comfort Powder Formula—Purple— 12.0 oz. . . . .	\$16.09

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2 (relating to price adjustment).

*Competitive Prices*

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective, the Competitive Prices January 1, 2015, through March 31, 2015, for WIC Authorization for Type 1 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. . . . .	\$1.19
Beans/Peas—Dry—16 oz. . . . .	\$1.98
Canned Fish—Pink Salmon . . . . .	\$2.19
Canned Fish—Sardines . . . . .	\$1.43
Canned Fish—Tuna . . . . .	\$1.19
Cereal (per oz.) . . . . .	\$0.31
Cheese, 16 oz. . . . .	\$6.84
Eggs . . . . .	\$2.51
Gerber Infant Cereal—8 oz. . . . .	\$2.19
Infant Fruits, 100%—4 oz. . . . .	\$0.64
Infant Vegetables, 100%—4 oz. . . . .	\$0.64
Infant Meats, 100%—2.5 oz. . . . .	\$1.03
Juice—11.5/12 oz. . . . .	\$2.22
Juice—48 oz. . . . .	\$3.00
Juice—64 oz. . . . .	\$3.59
Kosher Cheese—16 oz. . . . .	\$7.79
Kosher Low Fat Milk—1/2 gallon . . . . .	\$3.15
Kosher Whole Milk—1/2 gallon . . . . .	\$3.19
Milk, Low Fat—1/2 gallon . . . . .	\$2.35
Milk, Whole—1/2 gallon . . . . .	\$2.42
Peanut Butter—16-18 oz. . . . .	\$3.20
Whole Grain—Bread, 16 oz. . . . .	\$3.35
Whole Grain—Brown Rice, 16 oz. . . . .	\$1.69
Whole Grain—Oats, 16 oz. . . . .	\$2.39

<i>Description</i>	<i>Competitive Prices</i>
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.43
Similac Advance Concentrate Formula—Blue—13 oz. ....	\$4.95
Similac Advance Powder Formula—Blue—12.4 oz. ....	\$15.46
Similac Soy Isomil Concentrate Formula—Pink—13 oz. ....	\$5.11
Similac Soy Isomil Powder Formula—Pink—12.4 oz. ....	\$15.89

**Maximum Allowable Prices and Competitive Prices for Type 2 Stores in Regular Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 2 Stores in Regular Cost Counties.

*Maximum Allowable Prices*

Effective January 1, 2015, through March 31, 2015, the Maximum Allowable Prices the Department of Health will pay Type 2 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.35
Beans/Peas—Dry—16 oz. ....	\$2.26
Canned Fish—Pink Salmon. ....	\$2.22
Canned Fish—Sardines ....	\$1.59
Canned Fish—Tuna ....	\$1.35
Cereal (per oz.) ....	\$0.34
Cheese, 16 oz. ....	\$7.33
Eggs ....	\$2.68
Gerber Infant Cereal—8 oz. ....	\$2.30
Infant Fruits, 100%—4 oz. ....	\$0.71
Infant Vegetables, 100%—4 oz. ....	\$0.71
Infant Meats, 100%—2.5 oz. ....	\$1.12
Juice—11.5/12 oz. ....	\$2.51
Juice—48 oz. ....	\$3.19
Juice—64 oz. ....	\$4.18
Kosher Cheese—16 oz. ....	\$8.40
Kosher Low Fat Milk—quart ....	\$1.69
Kosher Low Fat Milk—1/2 gallon ....	\$3.27
Kosher Whole Milk—quart ....	\$1.80
Kosher Whole Milk—1/2 gallon ....	\$3.37
Milk, Dry—9.6 oz. ....	\$4.46
Milk, Dry—25.6 oz. ....	\$9.47
Milk, Evaporated—12 oz. ....	\$1.53
Milk, Low Fat—quart ....	\$1.42
Milk, Low Fat—1/2 gallon ....	\$2.52
Milk, Low Fat Lactose Free—quart ....	\$2.42
Milk, Low Fat Lactose Free—1/2 gallon ....	\$4.09
Milk, Whole—quart ....	\$1.50
Milk, Whole—1/2 gallon ....	\$2.59
Milk, Whole Lactose Free—quart ....	\$2.56
Milk, Whole Lactose Free—1/2 gallon ....	\$4.19
Peanut Butter—16-18 oz. ....	\$3.49
Soy Beverage—Pacific Natural Foods 32 oz. ....	\$3.35
Soy Beverage—8th Continent 64 oz. ....	\$3.59
Tofu—16 oz. ....	\$2.62
Whole Grain—Bread, 16 oz. ....	\$3.55
Whole Grain—Bread, 24 oz. ....	\$4.00
Whole Grain—Brown Rice, 16 oz. ....	\$1.95
Whole Grain—Brown Rice, 24 oz. ....	\$3.39
Whole Grain—Oats, 16 oz. ....	\$2.49

<i>Description</i>	<i>Maximum Allowable Price</i>
Whole Grain—Oats, 24 oz. ....	\$5.89
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.59
Boost RTF Formula—8 oz. ....	\$1.75
EnfaCare RTF Formula—32 oz. ....	\$7.39
EnfaCare w/Iron Powder Formula—12.8 oz. ....	\$16.54
Nutramigen Concentrate Formula—13 oz. ....	\$7.45
Nutramigen RTF Formula—32 oz. ....	\$9.69
Nutramigen w/Enflora Powder Formula—12.6 oz. ....	\$24.55
Pediasure RTF Formula—8 oz. ....	\$1.99
Pediasure w/Fiber RTF Formula—8 oz. ....	\$2.05
Pediasure Sidekicks RTF Formula—8 oz. ....	\$1.94
Similac Advance Concentrate—Blue Formula—13 oz. ....	\$5.00
Similac Advance RTF—Blue Formula—32 oz. ....	\$7.55
Similac Advance Powder—Blue Formula—12.4 oz. ....	\$15.58
Similac Expert Care Alimentum RTF Formula—32 oz. ....	\$9.69
Similac Expert Care Alimentum Powder Formula—16 oz. ....	\$28.29
Similac Expert Care for Diarrhea RTF Formula—32 oz. ....	\$7.69
Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$7.99
Similac Expert Care NeoSure Powder Formula—13.1 oz. ....	\$16.29
Similac Go & Grow Powder Milk Based Formula—Blue—1.38 lbs. ....	\$22.55
Similac Go & Grow Powder Soy Based Formula—Pink—1.38 lbs. ....	\$22.45
Similac for Spit Up RTF Formula—Green—32 oz. ....	\$7.75
Similac for Spit Up Powder Formula—Green—12.3 oz. ....	\$15.99
Similac for Spit Up Powder Formula—Green—12.0 oz. ....	\$15.99
Similac Sensitive RTF Formula—Orange—32 oz. ....	\$7.50
Similac Sensitive Powder Formula—Orange—12.6 oz. ....	\$15.59
Similac Sensitive Powder Formula—Orange—12.0 oz. ....	\$15.59
Similac Soy Isomil Concentrate—Pink Formula—13 oz. ....	\$5.29
Similac Soy Isomil RTF—Pink Formula—32 oz. ....	\$7.79
Similac Soy Isomil Powder—Pink Formula—12.4 oz. ....	\$16.19
Similac Total Comfort Powder Formula—Purple—12.6 oz. ....	\$16.19
Similac Total Comfort Powder Formula—Purple—12.0 oz. ....	\$16.19

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

*Competitive Prices*

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective January 1, 2015, through March 31,

2015, the Competitive Prices for WIC Authorization for Type 2 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz.....	\$1.20
Beans/Peas—Dry—16 oz.....	\$2.10
Canned Fish—Pink Salmon.....	\$2.25
Canned Fish—Sardines.....	\$1.49
Canned Fish—Tuna.....	\$1.27
Cereal (per oz.).....	\$0.32
Cheese, 16 oz.....	\$6.86
Eggs.....	\$2.57
Gerber Infant Cereal—8 oz.....	\$2.25
Infant Fruits, 100%—4 oz.....	\$0.69
Infant Vegetables, 100%—4 oz.....	\$0.69
Infant Meats, 100%—2.5 oz.....	\$1.10
Juice—11.5/12 oz.....	\$2.42
Juice—48 oz.....	\$3.07
Juice—64 oz.....	\$3.85
Kosher Cheese—16 oz.....	\$7.89
Kosher Low Fat Milk—1/2 gallon.....	\$3.19
Kosher Whole Milk—1/2 gallon.....	\$3.25
Milk, Low Fat—1/2 gallon.....	\$2.39
Milk, Whole—1/2 gallon.....	\$2.45
Peanut Butter—16-18 oz.....	\$3.30
Whole Grain—Bread, 16 oz.....	\$3.39
Whole Grain—Brown Rice, 16 oz.....	\$1.79
Whole Grain—Oats, 16 oz.....	\$2.49
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz.....	\$2.45
Similac Advance Concentrate Formula—Blue—13 oz.....	\$5.00
Similac Advance Powder Formula—Blue—12.4 oz.....	\$15.58
Similac Soy Isomil Concentrate Formula—Pink—13 oz.....	\$5.29
Similac Soy Isomil Powder Formula—Pink—12.4 oz.....	\$16.19

*Maximum Allowable Price*

<i>Description</i>	<i>Maximum Allowable Price</i>
Juice—64 oz.....	\$4.27
Kosher Cheese—16 oz.....	\$8.40
Kosher Low Fat Milk—quart.....	\$1.69
Kosher Low Fat Milk—1/2 gallon.....	\$3.27
Kosher Whole Milk—quart.....	\$1.80
Kosher Whole Milk—1/2 gallon.....	\$3.37
Milk, Dry—9.6 oz.....	\$4.55
Milk, Dry—25.6 oz.....	\$9.59
Milk, Evaporated—12 oz.....	\$1.60
Milk, Low Fat—quart.....	\$1.47
Milk, Low Fat—1/2 gallon.....	\$2.62
Milk, Low Fat Lactose Free—quart.....	\$2.49
Milk, Low Fat Lactose Free—1/2 gallon.....	\$4.19
Milk, Whole—quart.....	\$1.57
Milk, Whole—1/2 gallon.....	\$2.69
Milk, Whole Lactose Free—quart.....	\$2.66
Milk, Whole Lactose Free—1/2 gallon.....	\$4.25
Peanut Butter—16-18 oz.....	\$3.59
Soy Beverage—Pacific Natural Foods 32 oz.....	\$3.45
Soy Beverage—8th Continent 64 oz.....	\$3.76
Tofu—16 oz.....	\$2.72
Whole Grain—Bread, 16 oz.....	\$3.63
Whole Grain—Bread, 24 oz.....	\$4.07
Whole Grain—Brown Rice, 16 oz.....	\$2.00
Whole Grain—Brown Rice, 24 oz.....	\$3.59
Whole Grain—Oats, 16 oz.....	\$2.60
Whole Grain—Oats, 24 oz.....	\$6.11
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz.....	\$2.64
Boost RTF Formula—8 oz.....	\$1.79
EnfaCare RTF Formula—32 oz.....	\$7.69
EnfaCare w/Iron Powder Formula—12.8 oz.....	\$17.31
Nutramigen Concentrate Formula—13 oz.....	\$7.49
Nutramigen RTF Formula—32 oz.....	\$9.75
Nutramigen w/Enflora Powder Formula—12.6 oz.....	\$24.65
Pediasure RTF Formula—8 oz.....	\$1.99
Pediasure w/Fiber RTF Formula—8 oz.....	\$2.09
Pediasure Sidekicks RTF Formula—8 oz.....	\$2.03
Similac Advance Concentrate Formula—Blue—13 oz.....	\$5.15
Similac Advance RTF Formula—Blue—32 oz.....	\$7.65
Similac Advance Powder Formula—Blue—12.4 oz.....	\$16.37
Similac Expert Care Alimentum RTF Formula—32 oz.....	\$9.79
Similac Expert Care Alimentum Powder Formula—16 oz.....	\$28.69
Similac Expert Care for Diarrhea RTF Formula—32 oz.....	\$7.79
Similac Expert Care NeoSure RTF Formula—32 oz.....	\$8.09
Similac Expert Care NeoSure Powder Formula—13.1 oz.....	\$16.39
Similac Go & Grow Powder Milk Based Formula—Blue—1.38 lbs.....	\$23.29
Similac Go & Grow Powder Soy Based Formula—Pink—1.38 lbs.....	\$23.00
Similac for Spit Up RTF Formula—Green—32 oz.....	\$7.80
Similac for Spit Up Powder Formula—Green—12.3 oz.....	\$16.29
Similac for Spit Up Powder Formula—Green—12.0 oz.....	\$16.29
Similac Sensitive RTF Formula—Orange—32 oz.....	\$7.99

**Maximum Allowable Prices and Competitive Prices for Type 3 Stores in Regular Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 3 Stores in Regular Cost Counties.

*Maximum Allowable Prices*

Effective January 1, 2015, through March 31, 2015, the Maximum Allowable Prices the Department of Health will pay Type 3 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz.....	\$1.37
Beans/Peas—Dry—16 oz.....	\$2.35
Canned Fish—Pink Salmon.....	\$2.28
Canned Fish—Sardines.....	\$1.65
Canned Fish—Tuna.....	\$1.40
Cereal (per oz.).....	\$0.36
Cheese, 16 oz.....	\$7.35
Eggs.....	\$2.78
Gerber Infant Cereal—8 oz.....	\$2.33
Infant Fruits, 100%—4 oz.....	\$0.72
Infant Vegetables, 100%—4 oz.....	\$0.72
Infant Meats, 100%—2.5 oz.....	\$1.17
Juice—11.5/12 oz.....	\$2.56
Juice—48 oz.....	\$3.25



<i>Description</i>	<i>Maximum Allowable Price</i>
Similac Sensitive Powder Formula—Orange— 12.6 oz. ....	\$15.79
Similac Sensitive Powder Formula—Orange— 12.0 oz. ....	\$15.79
Similac Soy Isomil Concentrate Formula—Pink— 13 oz. ....	\$5.39
Similac Soy Isomil RTF Formula—Pink—32 oz. ...	\$7.99
Similac Soy Isomil Powder Formula—Pink— 12.4 oz. ....	\$16.39
Similac Total Comfort Powder Formula—Purple— 12.6 oz. ....	\$16.59
Similac Total Comfort Powder Formula—Purple— 12.0 oz. ....	\$16.59

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

*Competitive Prices*

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective January 1, 2015, through March 31, 2015, the Competitive Prices for WIC authorization for Type 3 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. ....	\$1.29
Beans/Peas—Dry—16 oz. ....	\$2.12
Canned Fish—Pink Salmon. ....	\$2.29
Canned Fish—Sardines. ....	\$1.54
Canned Fish—Tuna. ....	\$1.30
Cereal (per oz.) ....	\$0.34
Cheese, 16 oz. ....	\$6.88
Eggs. ....	\$2.61
Gerber Infant Cereal—8 oz. ....	\$2.30
Infant Fruits, 100%—4 oz. ....	\$0.72
Infant Vegetables, 100%—4 oz. ....	\$0.72
Infant Meats, 100%—2.5 oz. ....	\$1.15
Juice—11.5/12 oz. ....	\$2.47
Juice—48 oz. ....	\$3.29
Juice—64 oz. ....	\$4.00
Kosher Cheese—16 oz. ....	\$8.30
Kosher Low Fat Milk—1/2 gallon. ....	\$3.29
Kosher Whole Milk—1/2 gallon. ....	\$3.35
Milk, Low Fat—1/2 gallon. ....	\$2.49
Milk, Whole—1/2 gallon. ....	\$2.52
Peanut Butter—16-18 oz. ....	\$3.40
Whole Grain—Bread, 16 oz. ....	\$3.45
Whole Grain—Brown Rice, 16 oz. ....	\$2.05
Whole Grain—Oats, 16 oz. ....	\$2.65
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.58
Similac Advance Concentrate Formula—Blue— 13 oz. ....	\$5.15
Similac Advance Powder Formula—Blue— 12.4 oz. ....	\$16.37
Similac Soy Isomil Concentrate Formula—Pink— 13 oz. ....	\$5.39
Similac Soy Isomil Powder Formula—Pink—12.4 oz. ....	\$16.39

**Maximum Allowable Prices and Competitive Prices for Type 1 Stores in High Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 1 Stores in High Cost Counties.

*Maximum Allowable Prices*

Effective January 1, 2015, through March 31, 2015, the Maximum Allowable Prices the Department of Health will pay Type 1 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.28
Beans/Peas—Dry—16 oz. ....	\$2.20
Canned Fish—Pink Salmon. ....	\$2.22
Canned Fish—Sardines. ....	\$1.60
Canned Fish—Tuna. ....	\$1.35
Cereal (per oz.) ....	\$0.34
Cheese, 16 oz. ....	\$7.45
Eggs. ....	\$2.68
Gerber Infant Cereal—8 oz. ....	\$2.32
Infant Fruits, 100%—4 oz. ....	\$0.72
Infant Vegetables, 100%—4 oz. ....	\$0.72
Infant Meats, 100%—2.5 oz. ....	\$1.09
Juice—11.5/12 oz. ....	\$2.45
Juice—48 oz. ....	\$3.14
Juice—64 oz. ....	\$3.95
Kosher Cheese—16 oz. ....	\$8.40
Kosher Low Fat Milk—quart. ....	\$1.69
Kosher Low Fat Milk—1/2 gallon. ....	\$3.27
Kosher Whole Milk—quart. ....	\$1.80
Kosher Whole Milk—1/2 gallon. ....	\$3.37
Milk, Dry—9.6 oz. ....	\$4.43
Milk, Dry—25.6 oz. ....	\$9.42
Milk, Evaporated—12 oz. ....	\$1.49
Milk, Low Fat—quart. ....	\$1.40
Milk, Low Fat—1/2 gallon. ....	\$2.52
Milk, Low Fat Lactose Free—quart. ....	\$2.42
Milk, Low Fat Lactose Free—1/2 gallon. ....	\$3.99
Milk, Whole—quart. ....	\$1.52
Milk, Whole—1/2 gallon. ....	\$2.59
Milk, Whole Lactose Free—quart. ....	\$2.55
Milk, Whole Lactose Free—1/2 gallon. ....	\$3.89
Peanut Butter—16-18 oz. ....	\$3.40
Soy Beverage—Pacific Natural Foods 32 oz. ....	\$3.35
Soy Beverage—8th Continent 64 oz. ....	\$3.55
Tofu—16 oz. ....	\$2.61
Whole Grain—Bread, 16 oz. ....	\$3.55
Whole Grain—Bread, 24 oz. ....	\$3.99
Whole Grain—Brown Rice, 16 oz. ....	\$1.95
Whole Grain—Brown Rice, 24 oz. ....	\$3.39
Whole Grain—Oats, 16 oz. ....	\$2.52
Whole Grain—Oats, 24 oz. ....	\$5.49
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.59
Boost RTF Formula—8 oz. ....	\$1.70
EnfaCare RTF Formula—32 oz. ....	\$7.35
EnfaCare w/Iron Powder Formula—12.8 oz. ....	\$16.74
Nutramigen Concentrate Formula—13 oz. ....	\$7.43
Nutramigen RTF Formula—32 oz. ....	\$9.65
Nutramigen w/Enflora Powder Formula— 12.6 oz. ....	\$24.55
Pediasure RTF Formula—8 oz. ....	\$2.04
Pediasure w/Fiber RTF Formula—8 oz. ....	\$2.05
Pediasure Sidekicks RTF Formula—8 oz. ....	\$1.89

<i>Description</i>	<i>Maximum Allowable Price</i>
Similac Advance Concentrate Formula—Blue—13 oz. ....	\$5.00
Similac Advance RTF Formula—Blue—32 oz. ....	\$7.49
Similac Advance Powder Formula—Blue—12.4 oz. ....	\$15.50
Similac Expert Care Alimentum RTF Formula—32 oz. ....	\$9.69
Similac Expert Care Alimentum Powder Formula—16 oz. ....	\$28.39
Similac Expert Care for Diarrhea RTF Formula—32 oz. ....	\$7.69
Similac Expert Care NeoSure RTF Formula—32 oz. ....	\$8.14
Similac Expert Care NeoSure Powder Formula—13.1 oz. ....	\$16.59
Similac Go & Grow Powder Milk Based Formula—Blue—1.38 lbs. ....	\$23.17
Similac Go & Grow Powder Soy Based Formula—Pink—1.38 lbs. ....	\$23.10
Similac for Spit Up RTF Formula—Green—32 oz. ....	\$7.69
Similac for Spit Up Powder Formula—Green—12.3 oz. ....	\$16.19
Similac for Spit Up Powder Formula—Green—12.0 oz. ....	\$16.19
Similac Sensitive RTF Formula—Orange—32 oz. ....	\$7.49
Similac Sensitive Powder Formula—Orange—12.6 oz. ....	\$15.69
Similac Sensitive Powder Formula—Orange—12.0 oz. ....	\$15.69
Similac Soy Isomil Concentrate Formula—Pink—13 oz. ....	\$5.21
Similac Soy Isomil RTF Formula—Pink—32 oz. ....	\$7.79
Similac Soy Isomil Powder Formula—Pink—12.4 oz. ....	\$16.35
Similac Total Comfort Powder Formula—Purple—12.6 oz. ....	\$16.59
Similac Total Comfort Powder Formula—Purple—12.0 oz. ....	\$16.59

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

*Competitive Prices*

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective January 1, 2015, through March 31, 2015, the Competitive Prices for WIC authorization for Type 1 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. ....	\$1.20
Beans/Peas—Dry—16 oz. ....	\$2.10
Canned Fish—Pink Salmon. ....	\$2.25
Canned Fish—Sardines ....	\$1.48
Canned Fish—Tuna ....	\$1.30
Cereal (per oz.) ....	\$0.32
Cheese, 16 oz. ....	\$6.91
Eggs ....	\$2.57
Gerber Infant Cereal—8 oz. ....	\$2.29

<i>Description</i>	<i>Competitive Prices</i>
Infant Fruits, 100%—4 oz. ....	\$0.68
Infant Vegetables, 100%—4 oz. ....	\$0.68
Infant Meats, 100%—2.5 oz. ....	\$1.06
Juice—11.5/12 oz. ....	\$2.25
Juice—48 oz. ....	\$3.06
Juice—64 oz. ....	\$3.66
Kosher Cheese—16 oz. ....	\$7.89
Kosher Low Fat Milk—1/2 gallon ....	\$3.19
Kosher Whole Milk—1/2 gallon ....	\$3.25
Milk, Low Fat—1/2 gallon ....	\$2.49
Milk, Whole—1/2 gallon ....	\$2.55
Peanut Butter—16-18 oz. ....	\$3.29
Whole Grain—Bread, 16 oz. ....	\$3.39
Whole Grain—Brown Rice, 16 oz. ....	\$1.79
Whole Grain—Oats, 16 oz. ....	\$2.45
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.50
Similac Advance Concentrate Formula—Blue—13 oz. ....	\$5.00
Similac Advance Powder Formula—Blue—12.4 oz. ....	\$15.50
Similac Soy Isomil Concentrate Formula—Pink—13 oz. ....	\$5.21
Similac Soy Isomil Powder Formula—Pink—12.4 oz. ....	\$16.35

**Maximum Allowable Prices and Competitive Prices for Type 2 Stores in High Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 2 Stores in High Cost Counties.

*Maximum Allowable Prices*

Effective January 1, 2015, through March 31, 2015, the Maximum Allowable Prices the Department of Health will pay Type 2 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz. ....	\$1.35
Beans/Peas—Dry—16 oz. ....	\$2.30
Canned Fish—Pink Salmon. ....	\$2.29
Canned Fish—Sardines ....	\$1.72
Canned Fish—Tuna ....	\$1.40
Cereal (per oz.) ....	\$0.36
Cheese, 16 oz. ....	\$7.55
Eggs ....	\$2.78
Gerber Infant Cereal—8 oz. ....	\$2.40
Infant Fruits, 100%—4 oz. ....	\$0.75
Infant Vegetables, 100%—4 oz. ....	\$0.75
Infant Meats, 100%—2.5 oz. ....	\$1.15
Juice—11.5/12 oz. ....	\$2.56
Juice—48 oz. ....	\$3.30
Juice—64 oz. ....	\$4.24
Kosher Cheese—16 oz. ....	\$8.40
Kosher Low Fat Milk—quart ....	\$1.69
Kosher Low Fat Milk—1/2 gallon ....	\$3.27
Kosher Whole Milk—quart ....	\$1.80
Kosher Whole Milk—1/2 gallon ....	\$3.37
Milk, Dry—9.6 oz. ....	\$4.50
Milk, Dry—25.6 oz. ....	\$9.49
Milk, Evaporated—12 oz. ....	\$1.55
Milk, Low Fat—quart ....	\$1.44
Milk, Low Fat—1/2 gallon ....	\$2.62

<i>Description</i>	<i>Maximum Allowable Price</i>
Milk, Low Fat Lactose Free—quart . . . . .	\$2.50
Milk, Low Fat Lactose Free—1/2 gallon . . . . .	\$4.15
Milk, Whole—quart . . . . .	\$1.57
Milk, Whole—1/2 gallon . . . . .	\$2.69
Milk, Whole Lactose Free—quart . . . . .	\$2.60
Milk, Whole Lactose Free—1/2 gallon . . . . .	\$4.21
Peanut Butter—16-18 oz. . . . .	\$3.56
Soy Beverage—Pacific Natural Foods 32 oz. . . . .	\$3.40
Soy Beverage—8th Continent 64 oz. . . . .	\$3.75
Tofu—16 oz. . . . .	\$2.68
Whole Grain—Bread, 16 oz. . . . .	\$3.59
Whole Grain—Bread, 24 oz. . . . .	\$4.05
Whole Grain—Brown Rice, 16 oz. . . . .	\$1.99
Whole Grain—Brown Rice, 24 oz. . . . .	\$3.69
Whole Grain—Oats, 16 oz. . . . .	\$2.88
Whole Grain—Oats, 24 oz. . . . .	\$5.99
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. . . . .	\$2.64
Boost RTF Formula—8 oz. . . . .	\$1.76
EnfaCare RTF Formula—32 oz. . . . .	\$7.69
EnfaCare w/Iron Powder Formula—12.8 oz. . . . .	\$16.88
Nutramigen Concentrate Formula—13 oz. . . . .	\$7.49
Nutramigen RTF Formula—32 oz. . . . .	\$9.79
Nutramigen w/Enflora Powder Formula— 12.6 oz. . . . .	\$24.65
Pediasure RTF Formula—8 oz. . . . .	\$2.06
Pediasure w/Fiber RTF Formula—8 oz. . . . .	\$2.09
Pediasure Sidekicks RTF Formula—8 oz. . . . .	\$1.97
Similac Advance Concentrate Formula—Blue— 13 oz. . . . .	\$5.10
Similac Advance RTF Formula—Blue—32 oz. . . . .	\$7.59
Similac Advance Powder Formula—Blue— 12.4 oz. . . . .	\$15.75
Similac Expert Care Alimentum RTF Formula— 32 oz. . . . .	\$9.79
Similac Expert Care Alimentum Powder Formula—16 oz. . . . .	\$28.69
Similac Expert Care for Diarrhea RTF Formula— 32 oz. . . . .	\$8.09
Similac Expert Care NeoSure RTF Formula— 32 oz. . . . .	\$8.19
Similac Expert Care NeoSure Powder Formula— 13.1 oz. . . . .	\$16.69
Similac Go & Grow Powder Milk Based Formula—Blue—1.38 lbs. . . . .	\$23.40
Similac Go & Grow Powder Soy Based Formula— Pink—1.38 lbs. . . . .	\$23.19
Similac for Spit Up RTF Formula—Green— 32 oz. . . . .	\$7.79
Similac for Spit Up Powder Formula—Green— 12.3 oz. . . . .	\$16.39
Similac for Spit Up Powder Formula—Green— 12.0 oz. . . . .	\$16.39
Similac Sensitive RTF Formula—Orange— 32 oz. . . . .	\$7.59
Similac Sensitive Powder Formula—Orange— 12.6 oz. . . . .	\$15.89
Similac Sensitive Powder Formula—Orange— 12.0 oz. . . . .	\$15.89
Similac Soy Isomil Concentrate Formula—Pink— 13 oz. . . . .	\$5.39
Similac Soy Isomil RTF Formula—Pink—32 oz. . . . .	\$7.89
Similac Soy Isomil Powder Formula—Pink— 12.4 oz. . . . .	\$16.50
Similac Total Comfort Powder Formula—Purple— 12.6 oz. . . . .	\$16.89

<i>Description</i>	<i>Maximum Allowable Price</i>
Similac Total Comfort Powder Formula—Purple— 12.0 oz. . . . .	\$16.89

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

#### *Competitive Prices*

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective January 1, 2015, through March 31, 2015, the Competitive Prices for WIC Authorization for Type 2 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz. . . . .	\$1.23
Beans/Peas—Dry—16 oz. . . . .	\$2.13
Canned Fish—Pink Salmon. . . . .	\$2.29
Canned Fish—Sardines . . . . .	\$1.62
Canned Fish—Tuna . . . . .	\$1.32
Cereal (per oz.) . . . . .	\$0.34
Cheese, 16 oz. . . . .	\$7.00
Eggs . . . . .	\$2.62
Gerber Infant Cereal—8 oz. . . . .	\$2.42
Infant Fruits, 100%—4 oz. . . . .	\$0.70
Infant Vegetables, 100%—4 oz. . . . .	\$0.70
Infant Meats, 100%—2.5 oz. . . . .	\$1.13
Juice—11.5/12 oz. . . . .	\$2.45
Juice—48 oz. . . . .	\$3.16
Juice—64 oz. . . . .	\$3.90
Kosher Cheese—16 oz. . . . .	\$8.00
Kosher Low Fat Milk—1/2 gallon . . . . .	\$3.25
Kosher Whole Milk—1/2 gallon . . . . .	\$3.35
Milk, Low Fat—1/2 gallon . . . . .	\$2.55
Milk, Whole—1/2 gallon . . . . .	\$2.59
Peanut Butter—16-18 oz. . . . .	\$3.39
Whole Grain—Bread, 16 oz. . . . .	\$3.49
Whole Grain—Brown Rice, 16 oz. . . . .	\$1.90
Whole Grain—Oats, 16 oz. . . . .	\$2.65
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. . . . .	\$2.55
Similac Advance Concentrate Formula—Blue— 13 oz. . . . .	\$5.10
Similac Advance Powder Formula—Blue— 12.4 oz. . . . .	\$15.75
Similac Soy Isomil Concentrate Formula—Pink— 13 oz. . . . .	\$5.39
Similac Soy Isomil Powder Formula—Pink— 12.4 oz. . . . .	\$16.50

#### **Maximum Allowable Prices and Competitive Prices for Type 3 Stores in High Cost Counties**

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 3 Stores in High Cost Counties.

#### *Maximum Allowable Prices*

Effective January 1, 2015, through March 31, 2015, the Maximum Allowable Prices the Department of Health will pay Type 3 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
Beans, Canned—15.5/16 oz.	\$1.44
Beans/Peas—Dry—16 oz.	\$2.40
Canned Fish—Pink Salmon	\$2.40
Canned Fish—Sardines	\$1.75
Canned Fish—Tuna	\$1.42
Cereal (per oz.)	\$0.37
Cheese, 16 oz.	\$7.70
Eggs	\$2.84
Gerber Infant Cereal—8 oz.	\$2.60
Infant Fruits, 100%—4 oz.	\$0.86
Infant Vegetables, 100%—4 oz.	\$0.86
Infant Meats, 100%—2.5 oz.	\$1.19
Juice—11.5/12 oz.	\$2.60
Juice—48 oz.	\$3.40
Juice—64 oz.	\$4.27
Kosher Cheese—16 oz.	\$8.40
Kosher Low Fat Milk—quart	\$1.87
Kosher Low Fat Milk—1/2 gallon	\$3.27
Kosher Whole Milk—quart	\$1.80
Kosher Whole Milk—1/2 gallon	\$3.37
Milk, Dry—9.6 oz.	\$4.60
Milk, Dry—25.6 oz.	\$9.69
Milk, Evaporated—12 oz.	\$1.62
Milk, Low Fat—quart	\$1.59
Milk, Low Fat—1/2 gallon	\$2.72
Milk, Low Fat Lactose Free—quart	\$2.53
Milk, Low Fat Lactose Free—1/2 gallon	\$4.25
Milk, Whole—quart	\$1.69
Milk, Whole—1/2 gallon	\$2.79
Milk, Whole Lactose Free—quart	\$2.69
Milk, Whole Lactose Free—1/2 gallon	\$4.29
Peanut Butter—16-18 oz.	\$3.68
Soy Beverage—Pacific Natural Foods 32 oz.	\$3.50
Soy Beverage—8th Continent 64 oz.	\$3.90
Tofu—16 oz.	\$2.75
Whole Grain—Bread, 16 oz.	\$3.65
Whole Grain—Bread, 24 oz.	\$4.10
Whole Grain—Brown Rice, 16 oz.	\$2.35
Whole Grain—Brown Rice, 24 oz.	\$3.79
Whole Grain—Oats, 16 oz.	\$3.00
Whole Grain—Oats, 24 oz.	\$6.11
Whole Grain—Soft Corn or Whole Wheat	
Tortillas, 16 oz.	\$2.70
Boost RTF Formula—8 oz.	\$1.89
EnfaCare RTF Formula—32 oz.	\$7.99
EnfaCare w/Iron Powder Formula—12.8 oz.	\$17.31
Nutramigen Concentrate Formula—13 oz.	\$7.99
Nutramigen RTF Formula—32 oz.	\$9.89
Nutramigen w/Enflora Powder Formula—12.6 oz.	\$25.10
Pediasure RTF Formula—8 oz.	\$2.23
Pediasure w/Fiber RTF Formula—8 oz.	\$2.30
Pediasure Sidekicks RTF Formula—8 oz.	\$2.27
Similac Advance Concentrate Formula—Blue—13 oz.	\$5.58
Similac Advance RTF Formula—Blue—32 oz.	\$7.79
Similac Advance Powder Formula—Blue—12.4 oz.	\$16.89
Similac Expert Care Alimentum RTF Formula—32 oz.	\$9.89
Similac Expert Care Alimentum Powder Formula—16 oz.	\$29.98
Similac Expert Care for Diarrhea RTF Formula—32 oz.	\$8.49
Similac Expert Care NeoSure RTF Formula—32 oz.	\$8.39

<i>Description</i>	<i>Maximum Allowable Price</i>
Similac Expert Care NeoSure Powder Formula—13.1 oz.	\$17.09
Similac Go & Grow Powder Milk Based Formula—Blue—1.38 lbs.	\$23.45
Similac Go & Grow Powder Soy Based Formula—Pink—1.38 lbs.	\$23.50
Similac for Spit Up RTF Formula—Green—32 oz.	\$8.19
Similac for Spit Up Powder Formula—Green—12.3 oz.	\$17.20
Similac for Spit Up Powder Formula—Green—12.0 oz.	\$17.20
Similac Sensitive RTF Formula—Orange—32 oz.	\$8.09
Similac Sensitive Powder Formula—Orange—12.6 oz.	\$16.75
Similac Sensitive Powder Formula—Orange—12.0 oz.	\$16.75
Similac Soy Isomil Concentrate Formula—Pink—13 oz.	\$5.79
Similac Soy Isomil RTF Formula—Pink—32 oz.	\$8.04
Similac Soy Isomil Powder Formula—Pink—12.4 oz.	\$17.40
Similac Total Comfort Powder Formula—Purple—12.6 oz.	\$17.49
Similac Total Comfort Powder Formula—Purple—12.0 oz.	\$17.49

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

*Competitive Prices*

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective January 1, 2015, through March 31, 2015, the Competitive Prices for WIC Authorization for Type 3 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
Beans, Canned—15.5/16 oz.	\$1.40
Beans/Peas—Dry—16 oz.	\$2.15
Canned Fish—Pink Salmon	\$2.48
Canned Fish—Sardines	\$1.68
Canned Fish—Tuna	\$1.48
Cereal (per oz.)	\$0.35
Cheese, 16 oz.	\$7.20
Eggs	\$2.70
Gerber Infant Cereal—8 oz.	\$2.76
Infant Fruits, 100%—4 oz.	\$0.86
Infant Vegetables, 100%—4 oz.	\$0.86
Infant Meats, 100%—2.5 oz.	\$1.18
Juice—11.5/12 oz.	\$2.55
Juice—48 oz.	\$3.37
Juice—64 oz.	\$4.20
Kosher Cheese—16 oz.	\$8.40
Kosher Low Fat Milk—1/2 gallon	\$3.35
Kosher Whole Milk—1/2 gallon	\$3.39
Milk, Low Fat—1/2 gallon	\$2.58
Milk, Whole—1/2 gallon	\$2.60
Peanut Butter—16-18 oz.	\$3.59
Whole Grain—Bread, 16 oz.	\$3.55

<i>Description</i>	<i>Competitive Prices</i>
Whole Grain—Brown Rice, 16 oz. ....	\$2.30
Whole Grain—Oats, 16 oz. ....	\$2.99
Whole Grain—Soft Corn or Whole Wheat Tortillas, 16 oz. ....	\$2.60
Similac Advance Concentrate Formula—Blue— 13 oz. ....	\$5.58
Similac Advance Powder Formula—Blue— 12.4 oz. ....	\$16.89
Similac Soy Isomil Concentrate Formula—Pink— 13 oz. ....	\$5.79
Similac Soy Isomil Powder Formula—Pink— 12.4 oz. ....	\$17.40

Persons with a disability who require an alternative format of this listing (for example, large print, audiotape, Braille) should contact Perce Morgan, Department of Health, Bureau of WIC, 625 Forster Street, 7th Floor West, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-1289, or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

MICHAEL WOLF,  
*Secretary*

[Pa.B. Doc. No. 14-2636. Filed for public inspection December 19, 2014, 9:00 a.m.]

## DEPARTMENT OF HUMAN SERVICES

### Availability of Amendment to the Bureau of Autism Services' Adult Autism Waiver with Accompanying Home and Community-Based Settings Transition Plan

The Department of Human Services (Department) is making available for public review and comment the Bureau of Autism Services' proposed Adult Autism Waiver (AAW) Amendment and accompanying transition plan. The purpose of this amendment is to increase the number of recipients served in the waiver, add reserved capacity for people who have a protective services plan under the Adult Protective Services Act (APS) (35 P.S. §§ 10210.101—10210.704), which specifies that a need for long-term support and are determined eligible for the AAW, as well as add the transition plan for home and community-based settings that are specific to the waiver.

#### *Background*

To receive Federal matching funds for home and community-based waiver services, the Department must receive approval from the Centers for Medicare and Medicaid Services (CMS) for the number of participants to be served during each year of the approved waiver. The budget for Fiscal Year (FY) 2014-2015 granted funding to serve an additional 100 individuals in the AAW. As a result, the number of participants served at any one time will increase from 418 to 518 in FY 2014-2015 and FY 2015-2016. The amendment will also add reserved capacity for five participants who identified as meeting the APS reserve criteria.

CMS published a final rule at 79 FR 2948 (January 16, 2014) for home and community-based services with an effective date of March 17, 2014. This final rule amends

the Medicaid regulation for home and community-based services waivers under section 1915(c) of the Social Security Act (42 U.S.C.A. § 1396n(c)) to provide requirements regarding characteristics of settings that are home and community-based as well as settings that may not be home and community-based. See 42 CFR 441.301(c)(4) and (5) (relating to contents of request for a waiver). The final rule requires that a transition plan be submitted with each waiver amendment. (See 42 CFR 441.301(c)(6).) The proposed transition plan for the AAW includes the steps that the Department anticipates taking to achieve compliance in the following areas: unallowable settings, settings that are presumed not eligible; qualifications for all home and community-based settings; and requirements for provider-owned or controlled home and community-based residential settings.

#### *Fiscal Impact*

It is anticipated there will be an approximate cost to the Commonwealth of \$3.4 million (\$1.6 million in State funds) in FY 2014-2015 and \$4.2 million (\$2.0 million State funds) in FY 2015-2016.

#### *Public Comment*

The Department has made the Adult Autism Waiver Amendment and accompanying transition plan available at [http://www.dhs.state.pa.us/learn\\_aboutdhs/waiver/information/adultaustismwaiver/index.htm](http://www.dhs.state.pa.us/learn_aboutdhs/waiver/information/adultaustismwaiver/index.htm).

Interested persons are invited to submit written comments regarding this notice, the amendment and the proposed transition plan for the AAW. Comments should be addressed to Lea Sheffield, Department of Human Services, Bureau of Autism Services, Office of Developmental Programs, 625 Forster Street, Room 605, Harrisburg, PA 17120. Comments may also be submitted to the Department at [RA-odpcomment@pa.gov](mailto:RA-odpcomment@pa.gov). Comments must be submitted by February 2, 2015.

The Department will also hold two webinars to receive comments on the proposed transition plan for the AAW. Dates, times and links for registration to participate in these webinars are as follows:

January 14, 2015, 1 p.m. at <http://myaccount.maestro.conference.com/conference/register/2C0A3EGS75JYS7HW>

January 15, 2015, 9 a.m. at <http://myaccount.maestro.conference.com/conference/register/L8VF3HSLCP25UEK5>

To assist the Department in accurately capturing verbal comments, individuals are asked to submit a written copy of their comments by emailing them or mailing them to the address previously provided.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Copies of this notice, the waiver amendment and the transition plan may be obtained at the local Mental Health/Intellectual Disability (MH/ID) County Program, Administrative Entity or regional Office of Developmental Programs (ODP) in the corresponding regions:

- *Western Region:* Piatt Place, Room 4900, 301 5th Avenue, Pittsburgh, PA 15222, (412) 565-5144

- *Northeast Region:* Room 315, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, PA 18503, (570) 963-4749

- *Southeast Region:* 801 Market Street, Suite 5071, Philadelphia, PA 19107, (215) 560-2242 or (215) 560-2245

• *Central Region:* Room 430, Willow Oak Building, P. O. Box 2675, DGS Annex Complex, Harrisburg, PA 17105, (717) 772-6507

Contact information for the local MH/ID County Program can be found at <https://www.hcsis.state.pa.us/hcsis-ssd/pgm/asp/PRCNT.ASP> or contact the previously referenced regional ODP.

BEVERLY D. MACKERETH,  
*Secretary*

**Fiscal Note:** 14-NOT-928. (1) General Fund; (2) Implementing Year 2014-15 is \$1,600,000; (3) 1st Succeeding Year 2015-16 is \$2,000,000; 2nd Succeeding Year 2016-17 through 5th Succeeding Year 2019-20 are \$0; (4) 2013-14 Program—\$16,487,000; 2012-13 Program—\$13,000,000; 2011-12 Program—\$12,194,000; (7) Autism Intervention and Services; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 14-2637. Filed for public inspection December 19, 2014, 9:00 a.m.]

### **Availability of Amendments to the Office of Developmental Programs' Consolidated and Person/Family Directed Support Waivers with Accompanying Home and Community-Based Settings Transition Plans**

The Department of Human Services (Department) is making available for public review and comment the Office of Developmental Programs' proposed Consolidated and Person/Family Directed Support (P/FDS) waiver amendments and accompanying transition plans. The purpose of these amendments is to increase the number of unduplicated recipients served in each waiver, increase reserved capacity for the waiting list initiative and unanticipated emergencies, as well as add transition plans for home and community-based settings that are specific to each waiver.

#### *Background*

To receive Federal matching funds for home and community-based waiver services, the Department must receive approval from the Centers for Medicare and Medicaid Services (CMS) for the unduplicated number of participants to be served during each year of the approved waiver. The number of unduplicated participants is estimated for each year of the waivers and, with Federal approval, can be adjusted.

The budget for Fiscal Year (FY) 2014-2015 provides funding to serve an additional 700 young adults who are graduating from the special education system to continue to live independently in the community through enrollment in the P/FDS waiver. Two changes must be made to the P/FDS waiver to ensure these young adults can be enrolled in the waiver. First, the P/FDS waiver reserves capacity for the "waiting list initiative" which ensures that these young adults who are graduating can be enrolled in the waiver. This reserved capacity category is necessary because these graduates do not necessarily meet the enrollment criterion of having an emergency need. As a result, this amendment will increase reserved capacity for the waiting list initiative in Waiver Year 3 (FY 2014-2015) from 0 to 700 to ensure these individuals have access to needed waiver capacity. Second, the maximum number of unduplicated participants the Department intends to serve in the P/FDS waiver must be

increased from 12,600 to 13,300 for Waiver Year 3 (FY 2014-2015), Year 4 (FY 2015-2016) and Year 5 (FY 2016-2017).

The budget for FY 2014-2015 also provides funding to serve an additional 400 individuals who are on the emergency waiting list access to home and community-based services through enrollment in the Consolidated waiver. The unduplicated number of participants served will increase from 17,867 to 18,067 for Waiver Year 3 (FY 2014-2015) and from 17,982 to 18,067 for Waiver Year 4 (FY 2015-2016). This amendment will then decrease reserved capacity for hospital/rehabilitation care for Waiver Year 3 (FY 2014-2015), Year 4 (2015-2016) and Year 5 (FY 2016-2017) from 750 to 550. The Department has found in the first 2 years of implementation of reserved capacity for this purpose that this number is higher than necessary to serve those individuals that require hospital/rehabilitation care beyond 30 days and up to 6 consecutive months. The Consolidated waiver amendment will also increase reserved capacity for individuals/participants who are identified as meeting the unanticipated emergency criteria in Waiver Year 3 (FY 2014-2015) from 20 to 120.

CMS published a final rule for home and community-based services at 79 FR 2948 (January 16, 2014), with an effective date of March 17, 2014. This final rule amends the Medicaid regulation for home and community-based services waivers under section 1915(c) of the Social Security Act (42 U.S.C.A. § 1396n(c)) to provide requirements regarding characteristics of settings that are home and community-based as well as settings that may not be home and community-based (42 CFR 441.301) (relating to contents of request for a waiver). The final rule requires that a transition plan be submitted with each waiver amendment. The proposed transition plans for the Consolidated and P/FDS waivers include the steps that the Department anticipates taking to achieve compliance in the following areas: unallowable settings, settings that are presumed not eligible; qualifications for all home and community-based settings; and requirements for provider-owned or controlled home and community-based residential settings.

#### *Fiscal Impact*

It is anticipated that there will be an approximate cost to the Commonwealth, in relationship to the waiver amendments, of \$19.818 million (\$9.152 million State funds) in FY 2014-2015. These estimated costs are for FY 2014-2015 home and community-based waiver services for the 700 graduates from the special education system and the 400 emergency waiting list individuals.

#### *Public Comment*

The Consolidated waiver amendment and accompanying transition plan are available at <http://www.dhs.state.pa.us/learnaboutdhs/waiverinformation/consolidatedwaiverforindividualswithintellectualdisabilities/index.htm>. The P/FDS waiver amendment and accompanying transition plan are available at <http://www.dhs.state.pa.us/learnaboutDHS/waiverinformation/personfamilydirectedsupportwaiver/index.htm>.

Interested persons are invited to submit written comments regarding the proposed waiver amendments and accompanying transition plans. Comments should be addressed to Julie Mochon, Department of Human Services, Office of Developmental Programs, 625 Forster Street, Room 501, Harrisburg, PA 17120, RA-odpcomment@pa.gov. Comments must be submitted by February 2, 2015.

The Department will also hold two webinars to receive comments on the proposed transition plans for the Consolidated and P/FDS waivers. Dates, times and links for registration to attend these webinars are as follows:

January 14, 2015, 1 p.m. to 4 p.m. Register at <http://myaccount.maestroconference.com/conference/register/2C0A3EGS75JYS7HW>

January 15, 2015, 9 a.m. to 12 p.m. Register at <http://myaccount.maestroconference.com/conference/register/L8VF3HSLCP25UEK5>

To assist the Department in accurately capturing verbal comments, individuals are asked to submit a written copy of their comments by e-mailing them or mailing them to the addresses previously provided.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Copies of this notice, waiver amendments and transition plans may be obtained at the regional Office of Developmental Programs (ODP) in the corresponding regions:

- *Western Region:* Piatt Place, Room 4900, 301 5th Avenue, Pittsburgh, PA 15222, (412) 565-5144

- *Northeast Region:* Room 315, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, PA 18503, (570) 963-4749

- *Southeast Region:* 801 Market Street, Suite 5071, Philadelphia, PA 19107, (215) 560-2242 or (215) 560-2245

- *Central Region:* Room 430, Willow Oak Building, P. O. Box 2675, DGS Annex Complex, Harrisburg, PA 17105, (717) 772-6507

Contact information for the local Mental Health/Intellectual Disability County Program or Administrative Entity may be found at <https://www.hcsis.state.pa.us/hcsis-ssd/pgm/asp/PRCNT.ASP> or contact the previously referenced regional ODP.

BEVERLY D. MACKERETH,  
*Secretary*

**Fiscal Note:** 14-NOT-924. (1) General Fund; (2) Implementing Year 2014-15 is \$9,152,000; (3) 1st Succeeding Year 2015-16 through 5th Succeeding Year 2019-20 are \$22,636,000; (4) 2013-14 Program—\$1,027,000,000; 2012-13 Program—\$932,000,000; 2011-12 Program—\$855,000,000; (7) Intellectual Disabilities—Community Waiver Program; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 14-2638. Filed for public inspection December 19, 2014, 9:00 a.m.]

### **Availability of Amendments to the Office of Long-Term Living's OBRA Waiver; Additional Amendments to the Aging and Attendant Care Waivers; Renewal of the Community Care (CommCare) Waiver and Independence Waiver; and Accompanying Home and Community-Based Settings Transition Plans for the CommCare and OBRA Waivers**

The Department of Human Services (Department) is making available for public review and comment the Office of Long-Term Living's proposed OBRA waiver

amendments; proposed amendments to the Aging and Attendant Care waivers, which are additional amendments to the amendments in the notice published at 44 Pa.B. 7492 (November 29, 2014); the proposed CommCare and Independence waiver renewals; and accompanying transition plans for the CommCare and OBRA waivers.

#### *Aging, Attendant Care and OBRA Waiver Amendments*

Whenever there is a change that affects an element of the approved waiver, the Department must submit an amendment to the Centers for Medicare and Medicaid Services (CMS) for approval. The Department proposes to amend the service definitions in the Aging and OBRA waivers as follows: language will be added to clarify allowable settings for Adult Daily Living Services, as well as adding a 1/2 day unit to Enhanced Adult Daily Living Services and defining this unit; Accessibility Adaptations, Equipment, Technology and Medical Supplies will be separated into four separate service definitions; and standardized language will be added and the unit of service will be changed for Non-Medical Transportation Services.

The Department also proposes to amend the Prevocational Services, Structured Day Habilitation Services and Residential Habilitation Services in the OBRA waiver to clarify allowable settings.

In addition, the Department proposes to revise the Quality Improvement Strategy in the Aging, Attendant Care and OBRA waivers to meet the revised quality guidelines, Modifications to Quality Measures and Reporting in § 1915(c) Home and Community-Based Waivers, issued by CMS on March 12, 2014.

#### *CommCare and Independence Waiver Renewals*

Under 42 CFR 430.25(h)(2)(i) (relating to waivers of State plan requirements) to continue receiving Federal matching funds for Home and Community-Based Services (HCBS) waiver services, CMS requires that existing HCBS waivers be renewed every 5 years. The CommCare and Independence waivers were last renewed by CMS effective July 1, 2010; the proposed waiver renewals are to be submitted to CMS no later than March 17, 2015.

#### *Transition Plans*

CMS published a final rule for HCBS at 79 FR 2948 (January 16, 2014), with an effective date of March 17, 2014. This final rule amends the Medicaid regulation for HCBS waivers under section 1915(c) of the Social Security Act (42 U.S.C.A. § 1396n(c)) to provide requirements regarding characteristics of settings that are home and community-based as well as settings that may not be home and community-based. See 42 CFR Parts 430, 431, 435, 436, 440, 441 and 447. These requirements reflect CMS' intent that individuals receiving services and supports through Medicaid waivers receive services in settings that are integrated in and support full access to the greater community. For more details about the HCBS Final Rule, refer to the CMS HCBS webpage at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>.

The final rule requires that a waiver-specific transition plan be submitted with each waiver amendment or waiver renewal. The proposed transition plans for the CommCare and OBRA waivers include the steps that the Department anticipates taking to achieve compliance in the following areas: Assessment, Remediation Strategies

and Outreach and Engagement of Stakeholders. The transition plans for the Aging, Attendant Care and Independence waivers were published at 44 Pa.B. 7492.

The proposed OBRA waiver amendments, proposed additional amendments to the Aging and Attendant Care waivers, the proposed CommCare and Independence waiver renewals, accompanying transition plans and a summary of all revisions are available at <http://www.dhs.state.pa.us/dpworganization/officeoflongtermliving/index.htm> or by contacting the Department of Human Services, Office of Long-Term Living, (717) 783-8412.

#### *Fiscal Impact*

The amendments to the service definitions in the Aging and OBRA waivers are anticipated to be budget neutral; therefore, there is no anticipated fiscal impact.

The renewal and accompanying transition plans of the CommCare and Independence waivers are also anticipated to be budget neutral; therefore, there is no anticipated fiscal impact.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Human Services, Office of Long-Term Living, Bureau of Policy and Regulatory Management, Attention: Jennifer Hale, P. O. Box 8025, Harrisburg, PA 17105-8025, RA-waiverstandard@pa.gov. Comments received within 45 days will be reviewed and considered for revisions to the proposed waiver amendments, waiver renewals and the transition plans.

In addition, the Department will hold two webinars to receive comments on the proposed waiver amendments, waiver renewals and transition plans for the Aging, Attendant Care, OBRA, Independence and CommCare waivers.

#### *Dates, Times and Information to Participate in the Webinars*

Tuesday, January 6, 2015  
10 a.m.—12 p.m.

Thursday, January 8, 2015  
1 p.m.—3 p.m.

Dial in information for the webinars is available at <http://www.dhs.state.pa.us/dpworganization/officeoflongtermliving/index.htm> or by contacting the Department of Human Services, Office of Long-Term Living, (717) 783-8412.

To assist the Department in accurately capturing verbal comments, individuals are asked to submit a written copy of their comments to the Department at RA-waiverstandard@pa.gov or mail comments to the address provided previously.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

BEVERLY D. MACKERETH,  
*Secretary*

**Fiscal Note:** 14-NOT-921. No fiscal impact. (8) recommends adoption.

[Pa.B. Doc. No. 14-2639. Filed for public inspection December 19, 2014, 9:00 a.m.]

## **Disproportionate Share Payments for Enhanced Access to Emergency Department Services and Emergency Department and Outpatient Access Supplemental Payments**

The Department of Human Services (Department) intends to amend the Commonwealth's Title XIX State Plan (State Plan) to establish a new class of disproportionate share hospital (DSH) payments for certain acute care general hospitals that will be funded with revenues generated through the hospital assessment imposed by the City of Philadelphia (City).

#### *Background*

On July 4, 2008, the General Assembly enacted Article VIII-E of the Public Welfare Code (62 P. S. §§ 801-E—808-E) to authorize the City to impose, by ordinance, a monetary assessment on the non-Medicare net operating revenue of acute care general hospitals located in the City for purposes of assuring access to hospital and emergency department services. The City passed an ordinance implementing a Hospital Assessment Program (Program) effective January 1, 2009, and the Program has been in place since that time. The Program generates additional revenues to fund Medical Assistance (MA) expenditures for hospital emergency department and other hospital services in Philadelphia. The Program also generates additional funding to support the City's public health clinics. The MA funding from the Hospital Assessment Program is currently being used to fund emergency department and outpatient access supplemental payments as approved by the Centers for Medicare and Medicaid Services (CMS).

This new class of DSH payments will also be funded by the Philadelphia assessment and is intended to help offset the costs incurred by acute care general hospitals in the City that provide a significant amount of emergency services to MA patients. Many emergency department patients are subsequently admitted to the hospital. To promote access to these critical hospital and emergency services, the Department intends to allocate a portion of the funding currently being allocated to the existing emergency department and outpatient access supplemental payment to this new class of DSH payments.

The Department intends to submit a State Plan Amendment to CMS to implement this new class of DSH payments for acute care general hospitals located in the City with emergency departments that provide at least 1,000 emergency department visits to Pennsylvania MA patients per year. Hospitals that furnish acute care inpatient services to patients who are predominantly under 18 years of age or hospitals that receive a disproportionate share payment for enhanced access to multiple types of medical care in economically distressed areas of this Commonwealth under the State Plan will not be eligible to receive this additional payment. The Department intends to distribute the additional payments to qualifying acute care general hospitals based on each qualifying hospital's historical MA inpatient Title XIX fee-for-service revenue using Fiscal Year 2011-2012 MA cost report data. Payments to a qualifying hospital under the State Plan will be limited to the amount permitted by the hospital's OBRA 93 hospital-specific limit. The Department intends to limit the maximum payment amount to 2.91% of the hospital's net patient revenue.

Since qualification for the new DSH payment is also related to MA patients seen in hospital emergency departments, a hospital eligible to receive the new DSH payment will not be eligible to receive an emergency depart-



ment and outpatient access supplemental payment. For this reason, the Department intends to modify the criteria to qualify for the emergency department and outpatient access supplemental payment outlined in the State Plan to reflect this change as well as to modify the amount of funds to be allocated for this payment. All other qualifying criteria and the payment methodology for the current emergency department and outpatient access supplemental payment will remain unchanged.

#### *Fiscal Impact*

The Department anticipates there will be no fiscal impact as a result of these payments.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Human Services, Office of Medical Assistance Programs, Attention: c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

BEVERLY D. MACKERETH,  
*Secretary*

#### **Fiscal Note:** 14-NOT-927. (1) General Fund;

(7) MA—Outpatient; (2) Implementing Year 2014-15 is \$76,840,000; (3) 1st Succeeding Year 2015-16 through 5th Succeeding Year 2019-20 are \$0; (4) 2013-14 Program—\$264,179,000; 2012-13 Program—\$450,835,000; 2011-12 Program—\$645,095,000;

(7) MA—Inpatient; (2) Implementing Year 2014-15 is \$76,840,000; (3) 1st Succeeding Year 2015-16 through 5th Succeeding Year 2019-20 are \$0; (4) 2013-14 Program—\$163,862,000; 2012-13 Program—\$268,112,000; 2011-12 Program—\$325,685,000;

(8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 14-2640. Filed for public inspection December 19, 2014, 9:00 a.m.]

### **Fee Schedule Rates and Department-Established Fees for Consolidated and Person/Family Directed Support Waivers Services, Targeted Services Management and the Community Intellectual Disability Base-Funded Program**

The Department of Human Services (Department) is providing final notice of the Fee Schedule Rates for select services funded through the Consolidated and Person/Family Directed Support (P/FDS) waivers, the Department-established fees for residential ineligible services and fee for Targeted Service Management (TSM) effective July 1, 2014. These Fee Schedule Rates also serve as the Department-established fees under 55 Pa. Code § 4300.115(a) (relating to Department established fees) for base-funded services managed through county programs for individuals with an intellectual disability under the Mental Health and Intellectual Disability Act of 1966 (50 P. S. §§ 4104—4704), 55 Pa. Code Chapter 4300 (relating to county mental health and mental retardation fiscal manual) and 55 Pa. Code Chap-

ter 51 (relating to Office of Developmental Programs Home and Community-Based Services). The Department published its proposed fee schedule rates, Department-established fees for residential ineligible services and fee for TSM at 44 Pa.B. 4045 (June 28, 2014) and will implement the rates as proposed. There will be a change to the rates for Agency with Choice/Financial Management Services (AWC/FMS) beginning January 1, 2015.

#### *Change to AWC/FMS Fee Schedule Rates*

The Department considered as part of the final rate development process the impact the Federal Patient Protection and Affordable Care Act (Pub. L. No. 111-148) (ACA) may have on provider costs to provide services. Under the ACA, employers with 100 or more full-time employees will be required, beginning January 1, 2015, to offer meaningful and affordable health insurance options to full-time employees. The ACA defines a full-time employee as an employee who on average works 30 hours or more per week.

Currently available information indicates that AWC/FMS providers may be subject to the same provisions of the ACA as traditional agency employers. This means that AWC support service workers who work 30 hours or more per week, on average, may be considered “full-time employees” of the AWC provider organization. Because the proposed Fee Schedule Rates for AWC services did not include costs associated with employer-paid health care coverage, the Department adjusted the final Fee Schedule Rates for AWC services to include consideration for costs associated with employer-paid health care coverage.

No other adjustments are being made to the proposed rates for AWC/FMS. The proposed Fee Schedule Rates for AWC services published at 44 Pa.B. 4045 will be effective from July 1, 2014, through December 31, 2014.

The final Fee Schedule Rates for AWC services in this notice will be effective beginning January 1, 2015.

#### *Fiscal Impact*

It is anticipated that there will be an approximate cost to the Commonwealth of \$2.043 million (\$0.976 million State funds) in Fiscal Year (FY) 2014-2015 and \$2.268 million (\$1.084 million State funds) in FY 2015-2016 and subsequent fiscal years. A minimal increase in costs is anticipated for the Base program appropriation, which will be absorbed within existing funding. The Department does not anticipate making any adjustments to county allocations.

#### *Public Comment*

Copies of this notice may be obtained at the local Mental Health/Intellectual Disability (MH/ID) County Program, Administrative Entity (AE) or regional Office of Developmental Programs (ODP) in the corresponding regions:

- *Western region:* Piatt Place, Room 4900, 301 5th Avenue, Pittsburgh, PA 15222, (412) 565-5144
- *Northeast region:* Room 315, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, PA 18503, (570) 963-4749
- *Southeast region:* 801 Market Street, Suite 5071, Philadelphia, PA 19107, (215) 560-2242 or (215) 560-2245
- *Central region:* Room 430, Willow Oak Building, P. O. Box 2675, DGS Annex Complex, Harrisburg, PA 17105, (717) 772-6507

Contact information for the local MH/ID County Program or AE may be found at <https://www.hcsis.state.pa.us/hcsis-ssd/pgm/asp/PRCNT.ASP> or contact the previously referenced regional ODP.

Interested persons are invited to submit written comments regarding this proposed notice to the Department of Human Services, Office Developmental Programs, Division of Provider Assistance and Rate Setting, 4th Floor, Health and Welfare Building, Forster and Commonwealth Avenues, Harrisburg, PA 17120. Comments can also be sent to ra-ratesetting@state.pa.us, use subject header "PN Fee Schedule."

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

BEVERLY D. MACKERETH,  
Secretary

**Fiscal Note:** 14-NOT-929. (1) General Fund;

(7) ID—Community Waiver Program; (2) Implementing Year 2014-15 is \$976,000; (3) 1st Succeeding Year 2015-16 is \$1,084,000; 2nd Succeeding Year 2016-17 through 5th Succeeding Year 2019-20 are \$0; (4) 2013-14 Program—\$1,027,000,000; 2012-13 Program—\$932,000,000; 2011-12 Program—\$855,000,000;

(7) ID—Community Base Program; (2) Implementing Year 2014-15 is \$0; (3) 1st Succeeding Year 2015-16 through 5th Succeeding Year 2019-20 are \$0; (4) 2013-14 Program—\$151,000,000; 2012-13 Program—\$151,000,000; 2011-12 Program—\$158,000,000;

(8) recommends adoption. Funds have been included in the budget to cover this increase.

**Agency with Choice Financial Management Services, Including Benefit Allowance Effective January 1, 2015\*\***

\*\*No modifier is needed to indicate the benefit allowance is included.

Service	Procedure Code	Modifier**	Provider Type	Specialty Code	Unit	Area 1	Area 2	Area 3
Companion, level 3	W1727		54	540	15 min.	\$3.76	\$3.56	\$3.33
Supported Employment	W7235		54	540	15 min.	\$6.96	\$6.59	\$6.16
Unlicensed Habilitation, level 3	W7060		54	540	15 min.	\$5.66	\$5.36	\$5.01
Unlicensed Habilitation, level 3, enhanced	W7061	TD	54	540	15 min.	\$8.82	\$8.35	\$7.81
		TE						
Unlicensed Habilitation, level 4	W7068		54	540	15 min.	\$11.34	\$10.74	\$10.04
Unlicensed Habilitation, level 4, enhanced	W7069	TD	54	540	15 min.	\$17.64	\$16.70	\$15.61
		TE						
Supports Broker	W7096		54	540	15 min.	\$6.41	\$6.07	\$5.67
Respite—unlicensed, in home, level 2	W7250		54	540	1 day	\$268.61	\$254.35	\$237.71
	W7258		54	540	15 min.	\$4.16	\$3.94	\$3.68
Respite—unlicensed, in home, level 2, enhanced	W7251	TD	54	540	1 day	\$513.63	\$486.36	\$454.54
		TE						
	W7264	TD	54	540	15 min.	\$7.95	\$7.53	\$7.04
		TE						
Respite—unlicensed, in home, level 3	W7252		54	540	1 day	\$537.21	\$508.69	\$475.41
	W7265		54	540	15 min.	\$8.34	\$7.90	\$7.38
Respite—unlicensed, in home, level 3, enhanced	W7253	TD	54	540	1 day	\$1,027.25	\$972.71	\$909.07
		TE						
	W7266	TD	54	540	15 min.	\$15.92	\$15.07	\$14.09
		TE						
Homemaker/ Chore	W7283	UA	54	540	1 hour	\$16.18	\$15.32	\$14.32
Respite—unlicensed, out of home, level 2	W8002		54	540	1 day	\$268.61	\$254.35	\$237.71
	W8012		54	540	15 min.	\$4.16	\$3.94	\$3.68
Respite—unlicensed, out of home, level 2, enhanced	W8003	TD	54	540	1 day	\$513.63	\$486.36	\$454.54
		TE						
	W8013	TD	54	540	15 min.	\$7.95	\$7.53	\$7.04
		TE						
Respite—unlicensed, out of home, level 3	W8004		54	540	1 day	\$537.21	\$508.69	\$475.41
	W8014		54	540	15 min.	\$8.34	\$7.90	\$7.38

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>
Respite—unlicensed, out of home, level 3, enhanced	W8005	TD	54	540	1 day	\$1,027.25	\$972.71	\$909.07
		TE						
	W8015	TD	54	540	15 min.	\$15.92	\$15.07	\$14.09
		TE						

**Enhanced Communication Agency with Choice Financial Management Services, Including Benefit Allowance, Consolidated Waiver Only Effective January 1, 2015—Requires ODP Approval\*\***

\*\*No modifier is needed to indicate the benefit allowance is included.

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>
Companion, level 3	W1727	U1	54	540	15 min.	\$4.13	\$3.91	\$3.66
Supported Employment	W7235	U1	54	540	15 min.	\$7.67	\$7.27	\$6.79
Unlicensed Habilitation, level 3	W7060	U1	54	540	15 min.	\$6.26	\$5.93	\$5.54
Unlicensed Habilitation, level 3, enhanced	W7061	U1	54	540	15 min.	\$9.82	\$9.29	\$8.70
		TD & U1						
		TE & U1						
Unlicensed Habilitation, level 4	W7068	U1	54	540	15 min.	\$12.56	\$11.89	\$11.12
Unlicensed Habilitation, level 4, enhanced	W7069	U1	54	540	15 min.	\$19.65	\$18.61	\$17.39
		TD & U1						
		TE & U1						
Supports Broker	W7096	U1	54	540	15 min.	\$7.12	\$6.75	\$6.30
Respite—unlicensed, in home, level 2	W7250	U1	54	540	1 day	\$295.74	\$280.04	\$261.72
	W7258	U1	54	540	15 min.	\$4.58	\$4.34	\$4.05
Respite—unlicensed, in home, level 2, enhanced	W7251	U1	54	540	1 day	\$571.16	\$540.83	\$505.45
		TD & U1						
		TE & U1						
	W7264	U1	54	540	15 min.	\$8.84	\$8.38	\$7.83
		TD & U1						
		TE & U1						
Respite—unlicensed, in home, level 3	W7252	U1	54	540	1 day	\$591.47	\$560.06	\$523.42
	W7265	U1	54	540	15 min.	\$9.19	\$8.70	\$8.13
Respite—unlicensed, in home, level 3, enhanced	W7253	U1	54	540	1 day	\$1,142.31	\$1,081.66	\$1,010.90
		TD & U1						
		TE & U1						
	W7266	U1	54	540	15 min.	\$17.71	\$16.76	\$15.67
		TD & U1						
		TE & U1						
Respite—unlicensed, out of home, level 2	W8002	U1	54	540	1 day	\$295.74	\$280.04	\$261.72
	W8012	U1	54	540	15 min.	\$4.58	\$4.34	\$4.05
Respite—unlicensed, out of home, level 2, enhanced	W8003	U1	54	540	1 day	\$571.16	\$540.83	\$505.45
		TD & U1						
		TE & U1						
	W8013	U1	54	540	15 min.	\$8.84	\$8.38	\$7.83
		TD & U1						
Respite—unlicensed, out of home, level 3	W8004	U1	54	540	1 day	\$591.47	\$560.06	\$523.42
	W8014	U1	54	540	15 min.	\$9.19	\$8.70	\$8.13

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<i>Service</i>	<i>Procedure Code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>
Respite—unlicensed, out of home, level 3, enhanced	W8005	U1	54	540	1 day	\$1,142.31	\$1,081.66	\$1,010.90
		TD & U1						
		TE & U1						
	W8015	U1	54	540	15 min.	\$17.71	\$16.76	\$15.67
		TD & U1						
		TE & U1						

**Agency with Choice Financial Management Services, Excluding Benefit Allowance Effective January 1, 2015\*\***

\*\*Modifier U4 must be used with all procedures codes when billing for services excluding benefit allowance.

<i>Service</i>	<i>Procedure code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>
Companion, level 3	W1727	U4	54	540	15 min.	\$3.14	\$2.97	\$2.78
Supported Employment	W7235	U4	54	540	15 min.	\$6.34	\$6.00	\$5.61
Unlicensed Habilitation, level 3	W7060	U4	54	540	15 min.	\$5.04	\$4.77	\$4.46
Unlicensed Habilitation, level 3, enhanced	W7061	U4	54	540	15 min.	\$8.20	\$7.76	\$7.26
		TD & U4						
		TE & U4						
Unlicensed Habilitation, level 4	W7068	U4	54	540	15 min.	\$10.10	\$9.56	\$8.94
Unlicensed Habilitation, level 4, enhanced	W7069	U4	54	540	15 min.	\$16.40	\$15.53	\$14.51
		TD & U4						
		TE & U4						
Supports Broker	W7096	U4	54	540	15 min.	\$5.79	\$5.48	\$5.12
Respite—unlicensed, in home, level 2	W7250	U4	54	540	1 day	\$228.95	\$216.79	\$202.61
	W7258	U4	54	540	15 min.	\$3.54	\$3.35	\$3.13
Respite—unlicensed, in home, level 2, enhanced	W7251	U4	54	540	1 day	\$473.97	\$448.80	\$419.44
		TD & U4						
		TE & U4						
	W7264	U4	54	540	15 min.	\$7.33	\$6.94	\$6.49
		TD & U4						
		TE & U4						
Respite—unlicensed in home, level 3	W7252	U4	54	540	1 day	\$457.89	\$433.58	\$405.21
	W7265	U4	54	540	15 min.	\$7.10	\$6.72	\$6.28
Respite—unlicensed, in home, level 3, enhanced	W7253	U4	54	540	1 day	\$947.93	\$897.60	\$838.88
		TD & U4						
		TE & U4						
	W7266	U4	54	540	15 min.	\$14.68	\$13.90	\$12.99
		TD & U4						
		TE & U4						
Homemaker/Chore	W7283	U4	54	540	1 hour	\$13.70	\$12.97	\$12.12
		UA & U4						
Respite—unlicensed, out of home, level 2	W8002	U4	54	540	1 day	\$228.95	\$216.79	\$202.61
	W8012	U4	54	540	15 min.	\$3.54	\$3.35	\$3.13

<i>Service</i>	<i>Procedure code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>
Respite—unlicensed, out of home, level 2, enhanced	W8003	U4	54	540	1 day	\$473.97	\$448.80	\$419.44
		TD & U4						
		TE & U4						
	W8013	U4	54	540	15 min.	\$7.33	\$6.94	\$6.49
		TD & U4						
		TE & U4						
Respite—unlicensed, out of home, level 3	W8004	U4	54	540	1 day	\$457.89	\$433.58	\$405.21
	W8014	U4	54	540	15 min.	\$7.10	\$6.72	\$6.28
Respite—unlicensed, out of home, level 3, enhanced	W8005	U4	54	540	1 day	\$947.93	\$897.60	\$838.88
		TD & U4						
		TE & U4						
	W8015	U4	54	540	15 min.	\$14.68	\$13.90	\$12.99

**Enhanced Communication Agency with Choice Financial Management Services, Excluding Benefit Allowance, Consolidated Waiver Only Effective January 1, 2015—Requires ODP Approval\*\***

\*\*Modifier U4 must be used with all procedure codes when billing for services excluding benefit allowance.

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>
Companion, level 3	W1727	U4 & U1	54	540	15 min.	\$3.50	\$3.32	\$3.10
Supported Employment	W7235	U4 & U1	54	540	15 min.	\$7.04	\$6.66	\$6.23
Unlicensed Habilitation, level 3	W7060	U4 & U1	54	540	15 min.	\$5.65	\$5.35	\$5.00
Unlicensed Habilitation, level 3, enhanced	W7061	U4 & U1	54	540	15 min.	\$9.20	\$8.70	\$8.14
		TD & U4 & U1						
		TE & U4 & U1						
Unlicensed Habilitation, level 4	W7068	U4 & U1	54	540	15 min.	\$11.31	\$10.70	\$10.01
Unlicensed Habilitation, level 4, enhanced	W7069	U4 & U1	54	540	15 min.	\$18.40	\$17.42	\$16.28
		TD & U4 & U1						
Supports Broker	W7096	U4 & U1	54	540	15 min.	\$6.49	\$6.15	\$5.74
Respite—unlicensed, in home, level 2	W7250	U4 & U1	54	540	1 day	\$256.05	\$242.45	\$226.59
	W7258	U4 & U1	54	540	15 min.	\$3.96	\$3.75	\$3.51
Respite—unlicensed, in home, level 2, enhanced	W7251	U4 & U1	54	540	1 day	\$531.47	\$503.24	\$470.32
		TD & U4 & U1						
		TE & U4 & U1						
	W7264	U4 & U1	54	540	15 min.	\$8.22	\$7.79	\$7.28
Respite—unlicensed in home, level 3	W7252	U4 & U1	54	540	1 day	\$512.09	\$484.90	\$453.17
	W7265	U4 & U1	54	540	15 min.	\$7.94	\$7.52	\$7.02

<i>Service</i>	<i>Procedure Code</i>	<i>Modifier**</i>	<i>Provider Type</i>	<i>Specialty Code</i>	<i>Unit</i>	<i>Area 1</i>	<i>Area 2</i>	<i>Area 3</i>
Respite—unlicensed, in home, level 3, enhanced	W7253	U4 & U1	54	540	1 day	\$1,062.91	\$1,006.47	\$940.63
		TD & U4 & U1						
		TE & U4 & U1						
	W7266	U4 & U1	54	540	15 min.	\$16.46	\$15.59	\$14.57
Respite—unlicensed, out of home, level 2	W8002	U4 & U1	54	540	1 day	\$256.05	\$242.45	\$226.59
	W8012	U4 & U1	54	540	15 min.	\$3.96	\$3.75	\$3.51
Respite—unlicensed, out of home, level 2, enhanced	W8003	U4 & U1	54	540	1 day	\$531.47	\$503.24	\$470.32
		TD & U4 & U1						
		TE & U4 & U1						
	W8013	U4 & U1	54	540	15 min.	\$8.22	\$7.79	\$7.28
		TD & U4 & U1						
		TE & U4 & U1						
Respite—unlicensed, out of home, level 3	W8004	U4 & U1	54	540	1 day	\$512.09	\$484.90	\$453.17
	W8014	U4 & U1	54	540	15 min.	\$7.94	\$7.52	\$7.02
Respite—unlicensed, out of home, level 3, enhanced	W8005	U4 & U1	54	540	1 day	\$1,062.91	\$1,006.47	\$940.63
		TD & U4 & U1						
		TE & U4 & U1						
	W8015	U4 & U1	54	540	15 min.	\$16.46	\$15.59	\$14.57
		TD & U4 & U1						
		TE & U4 & U1						

[Pa.B. Doc. No. 14-2641. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Healthy Pennsylvania Cost Sharing Changes

As part of the Department of Human Service's (Department) Healthy Pennsylvania plan, the Department is announcing its intent to allow providers to require non-exempt beneficiaries with household income above 100% of the Federal Poverty Limit (FPL) to pay cost sharing as a condition for receiving items or services.

#### Discussion

Effective January 1, 2015, a provider, including a pharmacy or hospital, may require a Medicaid beneficiary to pay cost sharing as a condition for receiving an item or service if the Medicaid beneficiary has household income above 100% of the FPL, as specified by Federal Medicaid regulation in 42 CFR 447.52(e)(1) (relating to cost sharing). A provider may only deny services to Medicaid beneficiaries if it is the customary practice for all patients the provider serves to be denied services in these situations. A provider may not deny services to Medicaid beneficiaries with household income of 100% of the FPL or below. However, this does not change the beneficiaries'

liability for the copayment and does not prevent a provider from attempting to collect the cost sharing amount due.

In accordance with 42 CFR 447.56(f) (relating to limitations on premiums and cost sharing), Medicaid premiums and cost sharing incurred by all individuals in the Medicaid household may not exceed an aggregate limit of 5% of household income applied on a quarterly basis. The Department's claims processing system, also known as PROMISE™, will determine when the quarterly aggregate limit has been reached and no further cost sharing will be assessed until the next quarter.

#### Fiscal Impact

The Department anticipates no financial impact.

#### Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department of Human Services, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Build-

ing, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

BEVERLY D. MACKERETH,  
*Secretary*

**Fiscal Note:** 14-NOT-926. No fiscal impact. (8) recommends adoption.

[Pa.B. Doc. No. 14-2642. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Medical Assistance Program Fees for Primary Care Services

The Department of Human Services (Department) is announcing that it will pay the current Medical Assistance (MA) Program Fee Schedule rates for primary care services to all MA Program enrolled physicians, effective with dates of service on and after January 1, 2015.

#### *Background*

Section 1202 of the Patient Protection and Affordable Care Act (Pub. L. No. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152) (collectively ACA), required state Medicaid programs to pay qualifying physicians increased fees for specified primary care services that were no less than the Medicare rates in effect in calendar years (CY) 2013 and 2014, or if greater, the rates that were applicable in those CYs using the CY 2009 Medicare physician fee schedule conversion factor. The Centers for Medicare and Medicaid Services (CMS) provided for an enhanced Federal Medical Assistance Percentage (FMAP) of 100% of the rate in excess of the MA Program rate for CYs 2013 and 2014.

Qualifying physicians who rendered primary care services to Medicaid beneficiaries in the MA Program's fee-for-service and managed care delivery systems received the increased fees in CYs 2013 and 2014.

#### *Discussion*

Effective January 1, 2015, CMS will no longer provide an enhanced FMAP. Accordingly, and as set forth in the notices published by the Department at 43 Pa.B. 105 (January 5, 2013) and 44 Pa.B. 1949 (March 29, 2014), the Department will revert to paying all MA enrolled physicians the current MA Program Fee Schedule rates for primary care services.

The Department will issue an MA Bulletin to provide further information to physicians and will post the MA Bulletin on the Department's designated ACA Physician Fee Increases for Primary Care Services webpage.

#### *Fiscal Impact*

The Department does not anticipate a fiscal impact as a result of paying the current rates listed on the MA Program Fee Schedule for primary care services.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Human Services, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will

be reviewed and considered for any subsequent revisions of the MA Program Fee Schedule. Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

BEVERLY D. MACKERETH,  
*Secretary*

**Fiscal Note:** 14-NOT-925. No fiscal impact. (8) recommends adoption.

[Pa.B. Doc. No. 14-2643. Filed for public inspection December 19, 2014, 9:00 a.m.]

### PACE Expansion of the Living Independence for the Elderly Program for Montgomery County

The Living Independence for the Elderly (LIFE) Program is the Commonwealth's version of the Federal Program of All-inclusive Care for the Elderly (PACE). The Department of Human Services (Department) is planning to expand the LIFE Program in Montgomery County to satisfy participant needs and interest from providers and stakeholders in serving Montgomery County. The Department will solicit information from organizations interested in opening a LIFE center and participating in the LIFE Program in Montgomery County.

PACE providers will be responsible to deliver specific services to individuals enrolled in the LIFE Program who are eligible for Medical Assistance (MA) and are nursing facility clinically eligible. To become a PACE provider, the organization must be enrolled in the MA Program, comply with Federal PACE regulations and adhere to the related PACE program agreements.

There are no start-up grant dollars related to the development or operations of a LIFE center. Interested organizations will be responsible for all costs incurred during this and subsequent processes. Participant enrollment will not be authorized until the PACE program agreements between the provider, Centers for Medicare and Medicaid Services (CMS) and the Department have been signed, an executed MA Provider Agreement is in place and the Commonwealth budget allocation is sufficient to support this expansion.

The organization shall provide an original and three hard copies of the submission to the Department within 90 days of this publication. In addition, the organization may submit a redacted copy of the submission for proprietary purposes.

#### *Submission Requirements*

The following must be included in the submission in the order listed and documents must be clearly labeled:

##### 1. *Cover Letter*

An officer of the organization authorized to contractually bind the organization shall submit a signed cover letter which indicates interest in operating and participating as a LIFE provider serving the Montgomery County area.

##### 2. *Organizational Background*

The organization shall illustrate its history (and of any parent organization) and experience in serving individuals qualified for the PACE program and in developing long-term services and supports projects. The organization shall also identify the governing board.

### 3. *Feasibility Study*

The organization shall provide the Department with a feasibility study (market and financial assessment) of the project showing the number of PACE-eligible citizens in the service area and the expected growth of enrollment by month for at least the first 2 years of operation. The study must be conducted by an approved PACE Technical Assistance Center which can be found at [http://www.npaonline.org/website/article.asp?id=64&title=PACE\\_Technical\\_Assistance\\_Centers](http://www.npaonline.org/website/article.asp?id=64&title=PACE_Technical_Assistance_Centers). The organization shall provide a complete copy of the study or the submission will be rejected.

The feasibility study must evaluate at least the following and provide evidence and examples to support any claims:

- The realistic demand for the PACE services in the proposed service area. The analysis must cite the sources and years of the data used, the calculations and rationale to estimate the PACE-eligible population and it must provide comparison to successful PACE programs in similar regions, Nationally or in this Commonwealth. The analysis cannot assume that the program will achieve substantial market penetration in the early years or be a market leader, that is reaching 15-16%, without substantial proof.
- The organization's experience in programs having principles consistent with the PACE model, and that the organization has the depth of leadership and experience required to address the challenges in developing a sustainable PACE program.
- The organization's experience with primary, acute or long-term care services and demonstrated capability in serving a Medicare and Medicaid-eligible population.
- The financial capacity to fund program development, assume financial risk and fund risk reserve to and through the sustainability point. This shall include a 2-year start-up budget showing the following:
  - a) Monthly enrollment growth projections.
  - b) Costs of operations, including marketing and advertising.
  - c) Sources of funding, both initial startup and periodic infusions.
  - d) The break-even census number and month, plus the desired maximum census.
- The project design incorporates a LIFE center (licensed as an adult daily living center), transportation for the participants, 24-hour service capability, service plan and staffing ratios—all at or above the Commonwealth and Federal PACE mandates.
- The accessibility to nursing facilities, home and community-based services, hospitals and other needs of population in this Commonwealth.

### 4. *Service Area*

Organizations shall describe the service area (include zip codes), the estimated number of PACE-eligibles, geography, demographics and the realistic annual enrollment expected over the first 2 years.

### 5. *Marketing Plan*

Organizations shall illustrate the outreach methods, the advertising methods and schedules and follow-up schedules. Organizations shall also illustrate and document any supportive relationships, contracts and commitments that are already in place with aging organizations,

medical and service providers, community leaders, and the like (examples, marketing professionals on staff who have successfully started and sustained a PACE-like program; uniqueness in project design or outcomes expected; eliminating or downsizing nursing facility beds; improving the quality of collaborations with hospitals, personal service and medical providers, housing sources, and builders; incorporating innovative referral and marketing methods).

### 6. *Implementation Plan*

Organizations shall show an ability to provide services to potential Montgomery County participants within 18 months of receiving formal notification of selection from the Department. Details of the implementation plan shall include the level of construction needed for site and whether a design firm or contractor has been consulted. Organizations shall also describe the staffing plan and whether a set of professionals and others has been surveyed for interest in serving the program. The implementation plan shall also explain how operational needs will be managed 24 hours a day. Further, the organization selected must adhere to milestones established by the Department. The Department will terminate a project which is not executed in a timely manner.

### 7. *Financial Viability and Commitment*

Organizations shall provide realistic, justified and attainable detailed financial projections (including: resources for consulting, acquisition of space, acquisition of equipment, vans, working capital and solvency reserves) and enrollment census projections for at least 2 years. If applicable, the organization shall provide evidence that the organization has been successful with similar operations. The organization shall provide a letter of commitment from the board of directors, signed by an officer of the organization authorized to contractually bind the organization, to fund the project. In addition, the organization shall provide documentation of a risk reserve that will provide for sustainability. The organization shall provide the last 2 years of audited financial statements. If external financing is needed, provide a letter of intent from the lender.

### *Evaluation of Submissions*

The responses will be evaluated by a committee of Department administrators and analysts. The Department reserves the right to investigate any claims made or information provided. The Department also reserves the right of final approval or to reject a submission or to modify and reissue this solicitation. If selected, additional steps will be required, such as submission of a formal CMS application.

Partnering in submissions is allowable; however, each organization must provide a letter of commitment authorized by their board of directors, which is signed by an officer of the organization authorized to contractually bind the organization. Partnering in a submission does not limit an organization's ability to submit independently.

### *Fiscal Impact*

There is no fiscal impact anticipated for this notice.

### *Submission of Information*

Submissions must be addressed to the Department of Human Services, Office of Long-Term Living, Office of Chief of Staff, Attention: Jonathan Bowman, P. O. Box 8025, Harrisburg, PA 17105-8025. The Department must receive the submission within 90 days of this publication



or the submission will be rejected. Questions regarding this notice should be submitted to the Department at [ra-integratedcarecomments@pa.gov](mailto:ra-integratedcarecomments@pa.gov).

Persons with a disability who require an auxiliary aid or service may submit questions using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

BEVERLY D. MACKERETH,  
*Secretary*

**Fiscal Note:** 14-NOT-923. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 14-2644. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Payment Methodology for Services in the School-Based Access Program

The Department of Human Services (Department) is revising the payment methodology used for the School-Based Access Program (SBAP) as required by the Centers for Medicare and Medicaid Services (CMS).

#### *Background*

The Medical Assistance (MA) Program covers a broad range of health-related services provided to children with disabilities through the SBAP. Services must be health-related, not educational, and must be provided by a qualified MA provider. To be eligible for MA payment, services must be medically necessary and must be listed on the child's Individualized Education Program.

The Department provides payment to local education agencies (LEA) for school-based services. School-based services are paid on a cost-related basis. The payment methodology includes a cost reconciliation and cost settlement process. Each LEA certifies its costs. See 43 Pa.B. 2524 (May 4, 2013). Currently, LEAs include school districts, charter schools, intermediate units, vocational-technical schools, preschool early intervention programs and approved private schools (APS).

#### *Discussion*

The CMS advised the Department that APSs are not government units for Medicaid reimbursement purposes and, therefore, cannot utilize a certified public expenditure funding mechanism. As a result, effective January 1, 2015, APSs will no longer be eligible to participate as MA providers in the SBAP. APSs can continue to receive payment for school-based services by entering into contracts with LEAs that are enrolled in the MA Program as qualified providers. The participating LEAs will pay the APSs and may include the payments on their cost report as a contracted cost.

#### *Fiscal Impact*

The Department anticipates no fiscal impact as a result of this change in payment methodology for SBAP services.

#### *Public Comment*

Interested persons are invited to submit written comments regarding the revised payment methodology to the Department of Human Services, Office of Medical Assis-

ance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments will be reviewed and considered.

BEVERLY D. MACKERETH,  
*Secretary*

**Fiscal Note:** 14-NOT-922. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 14-2645. Filed for public inspection December 19, 2014, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Uniform Construction Code Review and Advisory Council Meeting

The Uniform Construction Code Review and Advisory Council will hold a meeting on Wednesday, January 14, 2015, at 10 a.m. at the Labor and Industry Building, E-100, 651 Boas Street, Harrisburg, PA 17121.

Additional information concerning the meeting may be found on the Department of Labor and Industry web site at [www.dli.state.pa.us](http://www.dli.state.pa.us). Scroll down and click on the link for "Uniform Construction Code" then "UCC Review and Advisory Council."

Questions concerning this may be directed to Joseph P. Marchioni, Jr. at (717) 783-6304.

JULIA K. HEARTHWAY,  
*Secretary*

[Pa.B. Doc. No. 14-2646. Filed for public inspection December 19, 2014, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania \$1,000,000 Super Cash Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$1,000,000 Super Cash.

2. *Price:* The price of a Pennsylvania \$1,000,000 Super Cash instant lottery game ticket is \$20.

3. *Play Symbols:* Each Pennsylvania \$1,000,000 Super Cash instant game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE), 13 (THIRTEEN), 14 (FOURTEEN), 15 (FIFTEEN), 16 (SIXTEEN), 17 (SEVENTEEN), 18 (EIGHTEEN), 19 (NINETEEN), 20 (TWENTY), 21 (TWENTYONE), 22 (TWENTYTWO), 23 (TWENTYTHREE).

24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN) and 40 (FORTY). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN), 40 (FORTY), Money Roll (MNYRL) symbol, Money Bag (WIN100) symbol and a SUPER (WINALL) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY), \$25<sup>00</sup> (TWY FIV), \$30<sup>00</sup> (THIRTY), \$40<sup>00</sup> (FORTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$250 (TWOHUNFTY), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$100,000 (ONEHUNTHO) and \$1MILL (ONE MIL).

5. *Prizes:* The prizes that can be won in this game are: \$10, \$20, \$25, \$30, \$40, \$50, \$100, \$250, \$500, \$1,000, \$10,000, \$100,000 and \$1,000,000. A player can win up to 20 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,400,000 tickets will be printed for the Pennsylvania \$1,000,000 Super Cash instant game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1MILL (ONE MIL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000,000. This prize shall be paid as a lump-sum cash payment.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10,000 (TEN THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a SUPER (WINALL) symbol and a prize symbol of \$500 (FIV HUN) appears in all 20 of the "prize" areas, on a single ticket, shall be entitled to a prize of \$10,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Money Roll (MNYRL) symbol and a prize symbol of \$1,000 (ONE THO) appears under the Money Roll (MNYRL) symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a SUPER (WINALL) symbol and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in all twenty of the "prize" areas, on a single ticket, shall be entitled to a prize of \$1,000.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a SUPER (WINALL) symbol and a prize symbol of \$25<sup>00</sup> (TWY FIV) appears in all twenty of the "prize" areas, on a single ticket, shall be entitled to a prize of \$500.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$250 (TWOHUNFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$250.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Money Roll (MNYRL) symbol and a prize symbol of \$250 (TWOHUNFTY) appears under the Money Roll (MNYRL) symbol, on a single ticket, shall be entitled to a prize of \$250.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a SUPER (WINALL) symbol and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in five of the "prize" areas and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in 15 of the "prize" areas, on a single ticket, shall be entitled to a prize of \$250.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Money Roll (MNYRL) symbol and a prize symbol of \$100 (ONE HUN) appears under the Money Roll (MNYRL) symbol, on a single ticket, shall be entitled to a prize of \$100.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Money Bag (WIN100) symbol, on a single ticket, shall be entitled to a prize of \$100.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50<sup>00</sup> (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$40<sup>00</sup> (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Money Roll (MNYRL) symbol and a prize symbol of \$40<sup>00</sup> (FORTY) appears under the Money Roll (MNYRL) symbol, on a single ticket, shall be entitled to a prize of \$40.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$30<sup>00</sup> (THIRTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$30.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Money Roll (MNYRL) symbol and a prize symbol of \$30<sup>00</sup> (THIRTY) appears under the Money Roll (MNYRL) symbol, on a single ticket, shall be entitled to a prize of \$30.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$25<sup>00</sup> (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Money Roll (MNYRL) symbol and a prize symbol of \$25<sup>00</sup> (TWY FIV) appears under the Money Roll (MNYRL) symbol, on a single ticket, shall be entitled to a prize of \$25.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Money Roll (MNYRL) symbol and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the Money Roll (MNYRL) symbol, on a single ticket, shall be entitled to a prize of \$20.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

*When Any Of Your Numbers Match Any Winning Number, Win Prize Shown Under The Matching Number. Win With:*

<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 5,400,000 Tickets</i>	
\$20 w/ MONEY ROLL	\$20	15	360,000
\$20	\$20	15	360,000
\$25 w/ MONEY ROLL	\$25	30	180,000
\$25	\$25	30	180,000
\$30 w/ MONEY ROLL	\$30	60	90,000
\$30	\$30	60	90,000
\$20 × 2	\$40	150	36,000
\$40 w/ MONEY ROLL	\$40	300	18,000
\$40	\$40	150	36,000
\$25 × 2	\$50	300	18,000
\$30 + \$20	\$50	100	54,000
\$50	\$50	300	18,000
\$20 × 5	\$100	150	36,000
\$100 w/ MONEY BAG	\$100	150	36,000
\$100 w/ MONEY ROLL	\$100	150	36,000
\$100	\$100	150	36,000
SUPER w/ ((\$20 × 5) + (\$10 × 15))	\$250	800	6,750
\$50 × 5	\$250	1,200	4,500
(\$100 × 2) + \$50	\$250	1,200	4,500
(\$30 × 7) + \$40	\$250	1,200	4,500
(((\$100 w/ MONEY BAG) × 2) + \$50	\$250	800	6,750
\$250 w/ MONEY ROLL	\$250	1,200	4,500
\$250	\$250	1,500	3,600
SUPER w/ \$25 × 20	\$500	1,200	4,500
\$100 × 5	\$500	3,000	1,800
\$250 × 2	\$500	2,400	2,250
(\$50 × 5) + (\$25 × 10)	\$500	2,400	2,250
(\$100 × 2) + \$250 + \$50	\$500	3,000	1,800
(\$100 w/ MONEY BAG) × 5	\$500	2,000	2,700
\$500	\$500	3,000	1,800
SUPER w/ \$50 × 20	\$1,000	3,750	1,440
\$250 × 4	\$1,000	12,000	450
\$500 × 2	\$1,000	12,000	450
(\$100 × 5) + (\$50 × 10)	\$1,000	8,000	675
(\$100 × 2) + \$500 + \$250 + \$50	\$1,000	8,000	675
(\$100 w/ MONEY BAG) × 10	\$1,000	6,000	900
\$1,000 w/ MONEY ROLL	\$1,000	12,000	450
\$1,000	\$1,000	12,000	450

When Any Of Your Numbers Match Any Winning Number, Win Prize Shown Under The Matching Number. Win With:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 5,400,000 Tickets
SUPER w/ \$500 × 20	\$10,000	216,000	25
\$10,000	\$10,000	216,000	25
\$100,000	\$100,000	540,000	10
\$1,000,000	\$1,000,000	1,080,000	5

Reveal a “MONEY ROLL” (MNYRL) symbol, win prize shown under that symbol automatically.  
 Reveal a “MONEY BAG” (WIN100) symbol, win \$100 instantly.  
 Reveal a “SUPER” (WINALL) symbol, win all 20 prizes shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania \$1,000,000 Super Cash instant lottery game tickets.

10. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$1,000,000 Super Cash, prize money from winning Pennsylvania \$1,000,000 Super Cash instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$1,000,000 Super Cash instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be

disseminated through media used to advertise or promote Pennsylvania \$1,000,000 Super Cash or through normal communications methods.

DANIEL MEUSER,  
*Secretary*

[Pa.B. Doc. No. 14-2647. Filed for public inspection December 19, 2014, 9:00 a.m.]

**Pennsylvania Cash Cow '14 Instant Lottery Game**

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Cash Cow '14.
2. *Price:* The price of a Pennsylvania Cash Cow '14 instant lottery game ticket is \$1.
3. *Play Symbols:* Each Pennsylvania Cash Cow '14 instant lottery game ticket will contain one play area. The play symbols and their captions, located in the play area are: Piggy (PIGGY) symbol, Corn (CORN) symbol, Sheep (SHEEP) symbol, Tractor (TRCTR) symbol, Chick (CHIC) symbol, Milk (MILK) symbol, Barn (BARN) symbol, COWBELL (CWBELL) symbol and a Cash (CASH) symbol.
4. *Prize Symbols:* The prize symbols and their captions, located in the play area are: FREE (TICKET), \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$4<sup>00</sup> (FOR DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY), \$25<sup>00</sup> (TWY FIV), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$5,000 (FIV THO).
5. *Prizes:* The prizes that can be won in this game are: Free \$1 Ticket, \$1, \$2, \$4, \$5, \$10, \$20, \$25, \$50, \$100, \$500 and \$5,000. The player can win up to 5 times on the ticket.
6. *Approximate Number of Tickets Printed For the Game:* Approximately 10,800,000 tickets will be printed for the Pennsylvania Cash Cow '14 instant lottery game.
7. *Determination of Prize Winners:*
  - (a) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$5,000 (FIV THO) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$5,000.
  - (b) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$500 (FIV HUN) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$100 (ONE HUN) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$100.

(d) Holders of tickets with a COWBELL (CWBELL) symbol in the play area and a prize symbol of \$20.00 (TWENTY) in all five of the “prize” areas, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$50.00 (FIFTY) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$50.

(f) Holders of tickets with a COWBELL (CWBELL) symbol in the play area and a prize symbol of \$10.00 (TEN DOL) in all five of the “prize” areas, on a single ticket, shall be entitled to a prize of \$50.

(g) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$25.00 (TWY FIV) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$25.

(h) Holders of tickets with a COWBELL (CWBELL) symbol in the play area and a prize symbol of \$5.00 (FIV DOL) in all five of the “prize” areas, on a single ticket, shall be entitled to a prize of \$25.

(i) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$20.00 (TWENTY) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets with a COWBELL (CWBELL) symbol in the play area and a prize symbol of \$4.00 (FOR DOL) in all five of the “prize” areas, on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$10.00 (TEN DOL) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$10.

(l) Holders of tickets with a COWBELL (CWBELL) symbol in the play area and a prize symbol of \$2.00 (TWO DOL) in all five of the “prize” areas, on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$5.00 (FIV DOL) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$5.

(n) Holders of tickets with a COWBELL (CWBELL) symbol in the play area and a prize symbol of \$1.00 (ONE DOL) in all five of the “prize” areas, on a single ticket, shall be entitled to a prize of \$5.

(o) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$4.00 (FOR DOL) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$4.

(p) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$2.00 (TWO DOL) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$2.

(q) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of \$1.00 (ONE DOL) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of \$1.

(r) Holders of tickets with a Cash (CASH) symbol in the play area and a prize symbol of FREE (TICKET) in the “prize” area under that Cash (CASH) symbol, on a single ticket, shall be entitled to a prize of one Pennsylvania Cash Cow '14 instant game ticket or one Pennsylvania Lottery instant game ticket with a \$1 sale price which is currently on sale.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

Reveal A “CASH” (CASH) Symbol,  
Win Prize Shown Under That  
Symbol. Win With:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 10,800,000 Tickets
FREE	FREE \$1 TICKET	10	1,080,000
\$1	\$1	75	144,000
\$1 × 2	\$2	37.5	288,000
\$2	\$2	37.5	288,000
\$1 × 4	\$4	200	54,000
\$2 × 2	\$4	200	54,000
(\$1 × 2) + \$2	\$4	200	54,000
\$4	\$4	200	54,000
COWBELL w/ (\$1 × 5)	\$5	150	72,000
(\$2 × 2) + \$1	\$5	300	36,000
\$5	\$5	300	36,000
COWBELL w/ (\$2 × 5)	\$10	300	36,000
\$5 × 2	\$10	300	36,000
\$10	\$10	300	36,000
COWBELL w/ (\$4 × 5)	\$20	750	14,400
\$5 × 4	\$20	1,500	7,200
\$10 × 2	\$20	1,500	7,200
\$20	\$20	1,500	7,200
COWBELL w/ (\$5 × 5)	\$25	800	13,500
\$25	\$25	2,400	4,500
COWBELL w/ (\$10 × 5)	\$50	2,400	4,500
\$25 × 2	\$50	12,000	900

Reveal A "CASH" (CASH) Symbol,  
Win Prize Shown Under That  
Symbol. Win With:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 10,800,000 Tickets
(\$20 × 2) + \$10	\$50	12,000	900
\$50	\$50	12,000	900
COWBELL w/ (\$20 × 5)	\$100	8,000	1,350
\$25 × 4	\$100	16,000	675
\$100	\$100	16,000	675
\$100 × 5	\$500	240,000	45
\$500	\$500	240,000	45
\$5,000	\$5,000	540,000	20

Reveal a "COWBELL" (CWBELL) symbol, win all 5 prizes shown!

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Cash Cow '14 instant lottery game tickets.

10. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Cash Cow '14, prize money from winning Pennsylvania Cash Cow '14 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Cash Cow '14 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be

disseminated through media used to advertise or promote Pennsylvania Cash Cow '14 or through normal communications methods.

DANIEL MEUSER,  
Secretary

[Pa.B. Doc. No. 14-2648. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Pennsylvania Ca\$h Up '14 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Ca\$h Up '14.

2. *Price:* The price of a Pennsylvania Ca\$h Up '14 instant lottery game ticket is \$3.

3. *Play Symbols:* Each Pennsylvania Ca\$h Up '14 instant lottery game ticket will contain nine play areas designated as "Game 1," "Game 2," "Game 3," "Game 4," "Game 5," "Game 6," "Game 7," "Game 8" and "Game 9." Each "Game" is played separately. There are 80 play symbols, two of which will be located in "Game 1," "Game 4" and "Game 7," three of which will be located in "Game 2," "Game 5," and "Game 8," and four of which will be located in "Game 3," "Game 6," and "Game 9." Each Pennsylvania Ca\$h Up '14 instant lottery game ticket will also contain a "YOUR NUMBERS" area. The "YOUR NUMBERS" area will consist of 30 play symbols. The play symbols that may be located in the nine play areas and the "YOUR NUMBERS" area are the numbers 01 through 80.

4. *Prize Symbols:* The prize symbols and their captions located in the "Prize" area of "Game 1," "Game 4" and "Game 7" are: \$3<sup>00</sup> (THR DOL), \$5<sup>00</sup> (FIV DOL), \$6<sup>00</sup> (SIX DOL), \$9<sup>00</sup> (NIN DOL), \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY), \$30<sup>00</sup> (THIRTY), \$50<sup>00</sup> (FIFTY), \$90<sup>00</sup> (NINETY), \$100 (ONE HUN), \$150 (ONEHUNFTY), \$300 (THR HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$20,000 (TWY THO) and \$50,000 (FTY THO). The prize symbols and their captions located in the "Prize" area of "Game 2," "Game 5," and "Game 8" are: \$3<sup>00</sup> (THR DOL), \$5<sup>00</sup> (FIV DOL), \$6<sup>00</sup> (SIX DOL), \$9<sup>00</sup> (NIN DOL), \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY), \$30<sup>00</sup> (THIRTY), \$50<sup>00</sup> (FIFTY) and \$150 (ONEHUNFTY). The prize symbols and their captions located in the "Prize" area of "Game 3," "Game 6," and "Game 9" are: \$3<sup>00</sup> (THR DOL),

\$5<sup>00</sup> (FIV DOL), \$6<sup>00</sup> (SIX DOL), \$9<sup>00</sup> (NIN DOL), \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY) and \$300 (THR HUN).

5. *Prizes:* The prizes that can be won in this game are: \$3, \$5, \$6, \$9, \$10, \$20, \$30, \$50, \$90, \$100, \$150, \$300, \$1,000, \$10,000, \$20,000 and \$50,000. A player can win up to 9 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 9,600,000 tickets will be printed for the Pennsylvania Ca\$h Up '14 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$50,000 (FTY THO) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$50,000.

(b) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$20,000 (TWY THO) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$20,000.

(c) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$10,000 (TEN THO) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$10,000.

(d) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which four of the "YOUR NUMBERS" play symbols match the same exact four play symbols, in "Game 3," "Game 6" or "Game 9," and a prize symbol of \$300 (THR HUN) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$900.

(f) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$300 (THR HUN) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$300.

(g) Holders of tickets upon which three of the "YOUR NUMBERS" play symbols match the same exact three play symbols, in "Game 2," "Game 5" or "Game 8," and a prize symbol of \$150 (ONEHUNFTY) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$300.

(h) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$150 (ONEHUNFTY) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$150.

(i) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which three of the "YOUR NUMBERS" play symbols match the same exact three play symbols, in "Game 2," "Game 5" or "Game 8," and a prize symbol of \$50 (FIFTY) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$100.

(k) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$90<sup>00</sup> (NINTY) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$90.

(l) Holders of tickets upon which three of the "YOUR NUMBERS" play symbols match the same exact three play symbols, in "Game 2," "Game 5" or "Game 8," and a prize symbol of \$30<sup>00</sup> (THIRTY) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$60.

(m) Holders of tickets upon which four of the "YOUR NUMBERS" play symbols match the same exact four play symbols, in "Game 3," "Game 6" or "Game 9," and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$60.

(n) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$50.

(o) Holders of tickets upon which three of the "YOUR NUMBERS" play symbols match the same exact three play symbols, in "Game 2," "Game 5" or "Game 8," and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$40.

(p) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$30<sup>00</sup> (THIRTY) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$30.

(q) Holders of tickets upon which four of the "YOUR NUMBERS" play symbols match the same exact four play symbols, in "Game 3," "Game 6" or "Game 9," and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$30.

(r) Holders of tickets upon which four of the "YOUR NUMBERS" play symbols match the same exact four play symbols, in "Game 3," "Game 6" or "Game 9," and a prize symbol of \$9<sup>00</sup> (NIN DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$27.

(s) Holders of tickets upon which two of the "YOUR NUMBERS" play symbols match the same exact two play symbols, in "Game 1," "Game 4" or "Game 7," and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$20.

(t) Holders of tickets upon which three of the "YOUR NUMBERS" play symbols match the same exact three play symbols, in "Game 2," "Game 5" or "Game 8," and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the "Prize" area for that "Game," on a single ticket, shall be entitled to a prize of \$20.

(u) Holders of tickets upon which four of the “YOUR NUMBERS” play symbols match the same exact four play symbols, in “Game 3,” “Game 6” or “Game 9,” and a prize symbol of \$6<sup>00</sup> (SIX DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$18.

(v) Holders of tickets upon which three of the “YOUR NUMBERS” play symbols match the same exact three play symbols, in “Game 2,” “Game 5” or “Game 8,” and a prize symbol of \$9<sup>00</sup> (NIN DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$18.

(w) Holders of tickets upon which four of the “YOUR NUMBERS” play symbols match the same exact four play symbols, in “Game 3,” “Game 6” or “Game 9,” and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$15.

(x) Holders of tickets upon which three of the “YOUR NUMBERS” play symbols match the same exact three play symbols, in “Game 2,” “Game 5” or “Game 8,” and a prize symbol of \$6<sup>00</sup> (SIX DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$12.

(y) Holders of tickets upon which two of the “YOUR NUMBERS” play symbols match the same exact two play symbol, in “Game 1,” “Game 4” or “Game 7,” and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$10.

(z) Holders of tickets upon which three of the “YOUR NUMBERS” play symbols match the same exact three play symbols, in “Game 2,” “Game 5” or “Game 8,” and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$10.

(aa) Holders of tickets upon which two of the “YOUR NUMBERS” play symbols match the same exact two play

symbol, in “Game 1,” “Game 4” or “Game 7,” and a prize symbol of \$9<sup>00</sup> (NIN DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$9.

(bb) Holders of tickets upon which four of the “YOUR NUMBERS” play symbols match the same exact four play symbols, in “Game 3,” “Game 6” or “Game 9,” and a prize symbol of \$3<sup>00</sup> (THR DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$9.

(cc) Holders of tickets upon which two of the “YOUR NUMBERS” play symbols match the same exact two play symbol, in “Game 1,” “Game 4” or “Game 7,” and a prize symbol of \$6<sup>00</sup> (SIX DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$6.

(dd) Holders of tickets upon which three of the “YOUR NUMBERS” play symbols match the same exact three play symbols, in “Game 2,” “Game 5” or “Game 8,” and a prize symbol of \$3<sup>00</sup> (THR DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$6.

(ee) Holders of tickets upon which two of the “YOUR NUMBERS” play symbols match the same exact two play symbol, in “Game 1,” “Game 4” or “Game 7,” and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$5.

(ff) Holders of tickets upon which two of the “YOUR NUMBERS” play symbols match the same exact two play symbol, in “Game 1,” “Game 4” or “Game 7,” and a prize symbol of \$3<sup>00</sup> (THR DOL) appears in the “Prize” area for that “Game,” on a single ticket, shall be entitled to a prize of \$3.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

*Scratch The Your Numbers Area, Then Scratch The Corresponding Numbers When They Appear In Games 1—9. When You Completely Match All Of The Numbers In Any Game, Apply That Game’s Multiplier To The Prize Shown For That Game And Win That Amount. Each Game Is Played Separately. Prizes For Games 1, 4 And 7 Are Not Multiplied. Win With:*

<i>Games 1, 4, 7</i>	<i>Games 2, 5, 8</i>	<i>Games 3, 6, 9</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 9,600,000 Tickets:</i>
\$3			\$3	9.09	1,056,000
\$5			\$5	23.81	403,200
	\$3		\$6	50	192,000
\$6			\$6	100	96,000
		\$3	\$9	250	38,400
\$3	\$3		\$9	250	38,400
\$6 + \$3			\$9	250	38,400
\$3 x 3			\$9	250	38,400
\$9			\$9	250	38,400
	\$5		\$10	166.67	57,600
\$5 x 2			\$10	250	38,400
\$10			\$10	250	38,400
\$5		\$5	\$20	250	38,400
	\$5 x 2		\$20	500	19,200
	\$10		\$20	500	19,200
\$20			\$20	1,000	9,600
\$5	\$5	\$5	\$30	1,000	9,600
	\$5 x 3		\$30	1,000	9,600
		\$10	\$30	1,000	9,600



Scratch The Your Numbers Area, Then Scratch The Corresponding Numbers When They Appear In Games 1—9. When You Completely Match All Of The Numbers In Any Game, Apply That Game's Multiplier To The Prize Shown For That Game And Win That Amount. Each Game Is Played Separately. Prizes For Games 1, 4 And 7 Are Not Multiplied. Win With:

			Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 9,600,000 Tickets:
\$30	\$6	\$6	\$30	1,000	9,600
\$10	\$3 + \$5	\$3 + \$5	\$30	1,000	9,600
\$10 × 2	\$3	\$3 + \$5	\$50	1,600	6,000
	\$10	\$10	\$50	1,600	6,000
\$30 + \$20			\$50	1,600	6,000
\$50			\$50	1,600	6,000
\$5 × 3	\$5 × 3	\$5 × 3	\$90	4,000	2,400
\$9	\$9 × 3	\$9	\$90	6,000	1,600
		\$10 × 3	\$90	4,800	2,000
\$10 + \$5	\$10 + \$5	\$10 + \$5	\$90	4,000	2,400
\$6 × 3	\$9	\$6 × 3	\$90	4,000	2,400
\$30 × 3			\$90	6,000	1,600
\$90			\$90	4,000	2,400
	\$10 × 3	\$10 × 3	\$150	10,000	960
\$50 × 3			\$150	24,000	400
\$10 × 3	\$5 × 3	\$10 × 3	\$150	10,000	960
\$10 × 3	\$20 × 3		\$150	12,000	800
\$150			\$150	15,000	640
\$30 × 3	\$30		\$150	12,000	800
\$50	\$50		\$150	24,000	400
	\$20 × 3	\$20 × 3	\$300	20,000	480
\$100 × 3			\$300	30,000	320
	\$50 × 3		\$300	40,000	240
\$30 × 3	\$20 × 3	\$10 × 3	\$300	17,143	560
	\$150		\$300	24,000	400
\$300			\$300	24,000	400
\$50 × 2	\$150 × 3		\$1,000	30,000	320
	\$50	\$300	\$1,000	30,000	320
\$1,000			\$1,000	30,000	320
\$10,000			\$10,000	1,600,000	6
\$20,000			\$20,000	1,600,000	6
\$50,000			\$50,000	960,000	10

Games 1, 4, 7 = Win the prize shown for that game.

Games 2, 5, 8 = Win double the prize shown for that game.

Games 3, 6, 9 = Win triple the prize shown for that game.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Ca\$h Up '14 instant lottery game tickets.

10. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall

be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Ca\$h Up '14, prize money from winning Pennsylvania Ca\$h Up '14 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Ca\$h Up '14 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61

Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Ca\$h Up '14 or through normal communications methods.

DANIEL MEUSER,  
Secretary

[Pa.B. Doc. No. 14-2649. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Pennsylvania Love to Win Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Love to Win.

2. *Price:* The price of a Pennsylvania Love to Win instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Love to Win instant lottery game ticket will contain one play area featuring a “WINNING NUMBERS” area and a “YOUR NUMBERS” area. The play symbols and their captions located in the “WINNING NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN) and 30 (THIRTY). The play symbols and their captions located in the “YOUR NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), Love Note (NOTE) symbol and a WIN (WINALL) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the “YOUR NUMBERS” area are: \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY), \$25<sup>00</sup> (TWY FIV), \$40<sup>00</sup> (FORTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO) and \$50,000 (FTY THO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$200, \$400, \$500, \$1,000, \$5,000 and \$50,000. A player can win up to 12 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,400,000 tickets will be printed for the Pennsylvania Love to Win instant lottery game.

#### 7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol

of \$50,000 (FTY THO) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(b) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$5,000 (FIV THO) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(c) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$1,000 (ONE THO) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a WIN (WINALL) symbol and a prize symbol of \$100 (ONE HUN) appears in eight of the “Prize” areas and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in four of the “Prize” areas, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$500 (FIV HUN) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$400 (FOR HUN) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a WIN (WINALL) symbol and a prize symbol of \$100 (ONE HUN) appears in two of the “Prize” areas and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in ten of the “Prize” areas, on a single ticket, shall be entitled to a prize of \$400.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Love Note (NOTE) symbol, and a prize symbol of \$200 (TWO HUN) appears in the “Prize” area under that Love Note (NOTE) symbol, on a single ticket, shall be entitled to a prize of \$200.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$100 (ONE HUN) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a WIN (WINALL) symbol and a prize symbol of \$25<sup>00</sup> (TWY FIV) appears in two of the “Prize” areas and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in ten of the “Prize” areas, on a single ticket, shall be entitled to a prize of \$100.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a WIN (WINALL) symbol and a prize symbol of \$20 (TWENTY) appears in two of the “Prize” areas, a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in two of the “Prize” areas, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in eight of the “Prize” areas, on a single ticket, shall be entitled to a prize of \$100.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Love Note (NOTE) symbol, and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in the

“Prize” area under that Love Note (NOTE) symbol, on a single ticket, shall be entitled to a prize of \$50.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$40<sup>.00</sup> (FORTY) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(n) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Love Note (NOTE) symbol, and a prize symbol of \$40<sup>.00</sup> (FORTY) appears in the “Prize” area under that Love Note (NOTE) symbol, on a single ticket, shall be entitled to a prize of \$40.

(o) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$25<sup>.00</sup> (TWY FIV) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$25.

(p) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Love Note (NOTE) symbol, and a prize symbol of \$25<sup>.00</sup> (TWY FIV) appears in the “Prize” area under that Love Note (NOTE) symbol, on a single ticket, shall be entitled to a prize of \$25.

(q) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$20<sup>.00</sup> (TWENTY) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(r) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Love Note (NOTE) symbol, and a prize symbol of \$20<sup>.00</sup> (TWENTY) appears in the “Prize” area under that Love Note (NOTE) symbol, on a single ticket, shall be entitled to a prize of \$20.

(s) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10<sup>.00</sup> (TEN DOL) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(t) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Love Note (NOTE) symbol, and a prize symbol of \$10<sup>.00</sup> (TEN DOL) appears in the “Prize” area under that Love Note (NOTE) symbol, on a single ticket, shall be entitled to a prize of \$10.

(u) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

(v) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Love Note (NOTE) symbol, and a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears in the “Prize” area under that Love Note (NOTE) symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

*When Any Of Your Numbers Match  
Any Winning Number, Win Prize  
Shown Under The Matching  
Number. Win With:*

<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 5,400,000 Tickets:</i>
\$5 w/ LOVE NOTE	\$5	270,000
\$5	\$5	180,000
\$5 × 2	\$10	90,000
\$10 w/ LOVE NOTE	\$10	144,000
\$10	\$10	180,000
\$5 × 4	\$20	36,000
\$10 × 2	\$20	36,000
\$20 w/ LOVE NOTE	\$20	90,000
\$20	\$20	36,000
\$5 × 5	\$25	18,000
(\$10 × 2) + \$5	\$25	18,000
\$20 + \$5	\$25	18,000
\$25 w/ LOVE NOTE	\$25	18,000
\$25	\$25	18,000
\$5 × 8	\$40	18,000
\$20 × 2	\$40	18,000
\$40 w/ LOVE NOTE	\$40	36,000
\$40	\$40	18,000
WIN w/ ((\$20 × 2) + (\$10 × 2) + (\$5 × 8))	\$100	923.08
WIN w/ ((\$25 × 2) + (\$5 × 10))	\$100	1,000
\$20 × 5	\$100	2,667
\$25 × 4	\$100	2,667
(\$50 w/ LOVE NOTE) × 2	\$100	1,846
\$100	\$100	1,846
WIN w/ ((\$100 × 2) + (\$20 × 10))	\$400	60,000
\$40 × 10	\$400	60,000
\$100 × 4	\$400	60,000

When Any Of Your Numbers Match  
Any Winning Number, Win Prize  
Shown Under The Matching  
Number. Win With:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 5,400,000 Tickets:
(\$200 w/ LOVE NOTE) × 2	\$400	60,000	90
\$400	\$400	60,000	90
WIN w/ ((\$100 × 8) + (\$50 × 4))	\$1,000	120,000	45
\$500 × 2	\$1,000	120,000	45
\$1,000	\$1,000	120,000	45
(\$400 × 10) + \$1,000	\$5,000	270,000	20
\$5,000	\$5,000	270,000	20
\$50,000	\$50,000	540,000	10

Reveal a “LOVE NOTE” (NOTE) symbol, win prize shown under it automatically.  
Reveal a “WIN” (WINALL) symbol, win all 12 prizes shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Love to Win instant lottery game tickets.

10. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Love to Win, prize money from winning Pennsylvania Love to Win instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Love to Win instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be

disseminated through media used to advertise or promote Pennsylvania Love to Win or through normal communications methods.

DANIEL MEUSER,  
Secretary

[Pa.B. Doc. No. 14-2650. Filed for public inspection December 19, 2014, 9:00 a.m.]

**Pennsylvania Lucky Valentine '14 Instant Lottery Game**

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Lucky Valentine '14.
2. *Price:* The price of a Pennsylvania Lucky Valentine '14 instant lottery game ticket is \$2.
3. *Play Symbols:* Each Pennsylvania Lucky Valentine '14 instant lottery game ticket will contain one play area. The play symbols and their captions, located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), Heart (HEART) symbol, XO (DOUBLE) symbol and a VALENTINE (WIN20) symbol.
4. *Prize Symbols:* The prize symbols and their captions, located in the play area are: \$1<sup>.00</sup> (ONE DOL), \$2<sup>.00</sup> (TWO DOL), \$3<sup>.00</sup> (THR DOL), \$4<sup>.00</sup> (FOR DOL), \$5<sup>.00</sup> (FIV DOL), \$10<sup>.00</sup> (TEN DOL), \$15<sup>.00</sup> (FIFTN), \$20<sup>.00</sup> (TWENTY), \$25<sup>.00</sup> (TWY FIV), \$50<sup>.00</sup> (FIFTY), \$100 (ONE HUN), \$250 (TWOHUNFTY), \$500 (FIV HUN), \$2,500 (TWYFIVHUN) and \$25,000 (TWYFIVTHO).
5. *Prizes:* The prizes that can be won in this game are: \$1, \$2, \$3, \$4, \$5, \$10, \$15, \$20, \$25, \$50, \$100, \$250, \$500, \$2,500 and \$25,000. The player can win up to 12 times on the ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 6,600,000 tickets will be printed for the Pennsylvania Lucky Valentine '14 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$25,000 (TWYFIVTHO) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$25,000.

(b) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$2,500 (TWYFIVHUN) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$2,500.

(c) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$500 (FIV HUN) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$250 (TWOHUNFTY) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$250.

(e) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$100 (ONE HUN) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$50<sup>.00</sup> (FIFTY) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$50.

(g) Holders of tickets with an XO (DOUBLE) symbol in the play area, and a prize symbol of \$25<sup>.00</sup> (TWY FIV) in the “Prize” area under that XO (DOUBLE) symbol, on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$25<sup>.00</sup> (TWY FIV) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$25.

(i) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$20<sup>.00</sup> (TWENTY) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets with a Valentine (WIN20) symbol in the play area, on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets with an XO (DOUBLE) symbol in the play area, and a prize symbol of \$10<sup>.00</sup> (TEN DOL) in

the “Prize” area under that XO (DOUBLE) symbol, on a single ticket, shall be entitled to a prize of \$20.

(l) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$15<sup>.00</sup> (FIFTN) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$15.

(m) Holders of tickets with an XO (DOUBLE) symbol in the play area, and a prize symbol of \$5<sup>.00</sup> (FIV DOL) in the “Prize” area under that XO (DOUBLE) symbol, on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$10<sup>.00</sup> (TEN DOL) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$10.

(o) Holders of tickets with an XO (DOUBLE) symbol in the play area, and a prize symbol of \$4<sup>.00</sup> (FOR DOL) in the “Prize” area under that XO (DOUBLE) symbol, on a single ticket, shall be entitled to a prize of \$8.

(p) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$5<sup>.00</sup> (FIV DOL) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$5.

(q) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$4<sup>.00</sup> (FOR DOL) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$4.

(r) Holders of tickets with an XO (DOUBLE) symbol in the play area, and a prize symbol of \$2<sup>.00</sup> (TWO DOL) in the “Prize” area under that XO (DOUBLE) symbol, on a single ticket, shall be entitled to a prize of \$4.

(s) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$3<sup>.00</sup> (THR DOL) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$3.

(t) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$2<sup>.00</sup> (TWO DOL) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$2.

(u) Holders of tickets with a Heart (HEART) symbol in the play area, and a prize symbol of \$1<sup>.00</sup> (ONE DOL) in the “Prize” area under that Heart (HEART) symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Reveal A “HEART” (HEART) Symbol, Win Prize Shown Under That Symbol. Win With:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 6,600,000 Tickets</i>
\$2	\$2	8.82	748,000
\$3	\$3	25	264,000
\$2 w/ XO	\$4	75	88,000
\$4	\$4	150	44,000
(\$2 w/ XO) + \$1	\$5	100	66,000
\$3 + \$2	\$5	150	44,000
\$5	\$5	300	22,000
\$2 × 5	\$10	300	22,000
\$5 × 2	\$10	300	22,000
(\$4 w/ XO) + \$2	\$10	187.5	35,200
\$10	\$10	300	22,000
\$3 × 5	\$15	500	13,200
\$5 × 3	\$15	500	13,200
(\$5 w/ XO) + \$5	\$15	500	13,200
\$15	\$15	500	13,200

Reveal A “HEART” (HEART)  
Symbol, Win Prize Shown  
Under That Symbol. Win With:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 6,600,000 Tickets
\$2 × 10	\$20	2,400	2,750
\$5 × 4	\$20	2,400	2,750
\$10 w/ XO	\$20	2,000	3,300
\$20 w/ VALENTINE	\$20	800	8,250
\$20	\$20	2,400	2,750
\$5 × 5	\$25	1,200	5,500
(\$20 w/ VALENTINE) + \$5	\$25	1,000	6,600
\$25	\$25	1,200	5,500
\$5 × 10	\$50	1,200	5,500
\$10 × 5	\$50	1,200	5,500
\$25 w/ XO	\$50	800	8,250
\$50	\$50	1,200	5,500
\$25 × 4	\$100	6,000	1,100
(\$25 × 2) + (\$5 × 10)	\$100	6,000	1,100
(\$20 w/ VALENTINE) × 5	\$100	2,000	3,300
\$100	\$100	6,000	1,100
(\$25 × 2) + (\$20 × 10)	\$250	30,000	220
\$250	\$250	60,000	110
\$50 × 10	\$500	60,000	110
\$500	\$500	60,000	110
\$500 × 5	\$2,500	220,000	30
\$2,500	\$2,500	220,000	30
\$25,000	\$25,000	660,000	10

Reveal an “XO” (DOUBLE) symbol, win double the prize shown under that symbol.  
Reveal a “VALENTINE” (WIN20) symbol, win \$20 instantly.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Lucky Valentine '14 instant lottery game tickets.

10. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Lucky Valentine '14, prize money from winning Pennsylvania Lucky Valentine '14 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the

announced close of the Pennsylvania Lucky Valentine '14 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Lucky Valentine '14 or through normal communications methods.

DANIEL MEUSER,  
*Secretary*

[Pa.B. Doc. No. 14-2651. Filed for public inspection December 19, 2014, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Green Light—Go: Pennsylvania’s Municipal Signal Partnership Program; Invitation to Submit Applications

Under 74 Pa.C.S. Chapter 92 (relating to traffic signals) and 75 Pa.C.S. § 9511(e.1) (relating to allocation of proceeds), the Department of Transportation (Department) established the Green Light—Go: Pennsylvania’s

Municipal Partnership Program, also known as the Green Light—Go Program. The Green Light—Go Program is a competitive application requiring a 50% municipal or private cash match for municipalities to request financial assistance for existing traffic signal maintenance and operations activities identified in 75 Pa.C.S. § 9511(e.1).

During Fiscal Year 2015-2016, up to \$25 million will be allocated to municipalities for upgrading traffic signals to light-emitting diode technology, performing regional operations such as retiming, developing special event plans and monitoring traffic signals and for maintaining and operating traffic signals.

The Department invites municipalities to submit electronic applications using the form at <https://adobeformscentral.com/?f=34F04e-RC8BCXQvLjGrZ7Q>. Applications and attachments should be emailed to RA-PDSIGNALFUNDING@pa.gov. The Department will be accepting Green Light—Go Program applications between December 20, 2014, and February 27, 2015.

Additional information on the Green Light—Go Program requirements, guidelines, application evaluation criteria, corridor designations and the Department's corridor prioritization can be found on the Department's traffic signal web site at <http://www.dot.state.pa.us/signals>.

If municipalities are awarded funding, all invoices and status updates will be requested through the Department's dotGrants system (<http://www.dot34.state.pa.us/>). Municipalities not currently utilizing the dotGrants system for liquid fuels payments should start the process to get access once the application has been submitted.

Questions should be directed to Daniel Farley, Manager, Traffic Signals and Operational Analysis Unit, Bureau of Maintenance and Operations, Department of Transportation, 400 North Street, 6th Floor, Harrisburg, PA 17120, (717) 783-0333, RA-PDSIGNALFUNDING@pa.gov.

BARRY J. SCHOCH, PE,  
*Secretary*

[Pa.B. Doc. No. 14-2652. Filed for public inspection December 19, 2014, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

### Borough of Stockertown v. DEP; EHB Doc. No. 2014-166-M

Borough of Stockertown has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Borough of Stockertown for a facility in Northampton County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to

the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
*Chairperson*

[Pa.B. Doc. No. 14-2653. Filed for public inspection December 19, 2014, 9:00 a.m.]

## GAME COMMISSION

### Notice of Intent to Adopt Final Environmental Assessment Prepared for the Voluntary Public Access and Habitat Incentive Program in Pennsylvania by the Farm Service Agency and the Pennsylvania Game Commission, in May 2011

The Natural Resources Conservation Service (NRCS) announces its intent to adopt the Farm Service Agency and the Pennsylvania Game Commission Programmatic Environmental Assessment for Implementation of the Voluntary Public Access and Habitat Incentive Program (VPA-HIP) Agreement for Pennsylvania, May 2011 (2011 EA), under the provisions of the Council on Environmental Quality regulations implementing the National Environmental Policy Act in 40 CFR 1506.3 (relating to adoption). The NRCS has reviewed the 2011 EA and determined that it adequately addresses the environmental impacts related to the proposed action which is to grant the Game Commission (Commission) \$6 million to continue expansion of the components of the Pennsylvania Public Access Program that were funded under the 2011 VPA-HIP grant.

VPA-HIP provides grants to State and Tribal governments to encourage owners and operators of privately held farm, ranch and forest land to voluntarily allow public access for outdoor recreation activities such as hunting. VPA-HIP was authorized under the Food, Conservation and Energy Act of 2008 (Pub. L. No. 110-234). Previously administered by the United States Department of Agriculture, Farm Service Agency, VPA-HIP was transferred to NRCS in 2014. The Pennsylvania Public Access Program will use 2014 VPA-HIP funds to:

- Increase cooperator participation by at least 20% to 16,923 cooperators.
- Provide 20% more new hunting and trapping opportunities to hunters and trappers for pheasants, rabbits, woodcock, ducks, quail, mink and muskrats.
- Increase the current 2.6 million-acre program by 520,000 acres.
- Increase habitat quality on at least 50,000 acres on participating properties.
- Monitor the results, including program element increases, economic benefits and the results of public access user surveys, so that successes can be documented.

These elements of the program are substantially the same as those analyzed in the 2011 EA. To ensure there are no adverse effects on protected species when habitat improvement projects are carried out, the Commission

has agreed to follow its well-established process for evaluating the potential impacts proposed projects would have on both State and Federally listed threatened, endangered and candidate species. In addition, the NRCS will designate the Commission as its representative for purposes of conducting informal consultation with the United States Fish and Wildlife Service (Service) if it is determined that an action may affect a Federally-listed species. The Commission will use the Pennsylvania Natural Diversity Inventory (PNDI) to identify potential impacts to all known Federal and State listed threatened and endangered species, as well as candidate species. They will analyze PNDI data for all land on which 2014 VPA-HIP funds may be used to implement habitat improvement projects for both State and Federally listed threatened, endangered and candidate species. If PNDI data analysis indicates a potential impact, the Commission will undertake informal Endangered Species Act Section 7 consultation with the Service on behalf of the NRCS. If mitigation measures cannot be identified to avoid adverse effects, the Commission will not carry out the project in that location. Each project funded through the 2014 VPA-HIP grant will be evaluated by a Commission biologist using the process previously described. A detailed description of the process is available on the NRCS web site at [www.nrcs.usda.gov/EA](http://www.nrcs.usda.gov/EA).

The State Historic Preservation Office (SHPO) is aware of all habitat management activities that the Commission implements. If any new activity is proposed that involves a soil disturbing practice that might impact below plow depth (12 inches), such as construction activities, the Commission will request SHPO review for that activity. None of the currently proposed VPA-HIP practices are considered construction practices or anticipated to impact soils below plow depth. The SHPO recently conducted field reviews on fire break construction and other prescribed burning activities utilized by the Commission, and their findings were that no negative impacts on cultural resources would occur. The NRCS has also determined these best management practices are not likely to adversely affect historic or cultural resources, primarily because the installation of the practice will not exceed the depth, extent or kind of previous cultivation or other earth disturbance.

The NRCS will accept comments on its intent to adopt the 2011 EA at the following address until January 20, 2015. A copy of the 2011 EA is available at <http://www.nrcs.usda.gov/ea>. The NRCS will review comments and determine whether it is appropriate to issue a Finding of No Significant Impact or to prepare an Environmental Impact Statement before the action proceeds.

For further information concerning actions being taken by the NRCS, to obtain a hard copy of the 2011 EA or to provide written comment, contact Andrée DuVarney, National Environmental Coordinator, USDA, NRCS, Ecological Sciences Division, Room 6158-S, P. O. Box 2890, Washington, DC 20013-2890, [andree.duvarney@wdc.usda.gov](mailto:andree.duvarney@wdc.usda.gov).

R. MATTHEW HOUGH,  
*Executive Director*

[Pa.B. Doc. No. 14-2654. Filed for public inspection December 19, 2014, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Geisinger Health Plan HMO—Medical and Pharmacy; Small Group Transitional Policies; Rate Filing

Geisinger Health Plan HMO submitted a rate filing to increase the medical premium rates for its small group nongrandfathered health plans to be offered to groups renewing June 1, 2015, through December 2015. The filing proposes a rate increase of 18.3% for groups without pharmacy coverage and a 20.2% increase for groups with medical and pharmacy coverage. Approximately 5,563 members will be impacted. The proposed rate increase will generate approximately \$5.9 million of additional revenue. The requested effective date of the change is June 1, 2015.

Unless formal administrative action is taken prior to March 4, 2015, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). Under the tab "How to Find..." click on the link "PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written or e-mail comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [csandersjo@pa.gov](mailto:csandersjo@pa.gov) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

MICHAEL F. CONSEDINE,  
*Insurance Commissioner*

[Pa.B. Doc. No. 14-2655. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Geisinger Quality Options PPO (GSHP-129826332); Rate Filing

Geisinger Quality Options PPO submitted a rate filing to increase the premium rates for its Small Group Transitional policies renewing June 1, 2015, through December 2015. The filing proposes a rate increase of 11.3% and will affect approximately 18,100 subscribers. The proposed rate increase will generate approximately \$1.8 million of additional revenue and will be effective January 1, 2015.

Unless formal administrative action is taken prior to March 4, 2015, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). Under the tab "How to Find..." click on the link "PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written or e-mail comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA



17120, csandersjo@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

MICHAEL F. CONSEDINE,  
*Insurance Commissioner*

[Pa.B. Doc. No. 14-2656. Filed for public inspection December 19, 2014, 9:00 a.m.]

## LEGISLATIVE REFERENCE BUREAU

### Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a

statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

### *Executive Board*

Resolution No. CB-14-002, Dated October 29, 2014. Authorizes the Agreement between the Commonwealth of Pennsylvania and the Fraternal Order of Police, Lodge #85, Capitol Police L4 Unit. The Agreement provides for the establishment of rates of pay, hours of work, and other conditions of employment for the period July 1, 2011 through June 30, 2015.

### *Governor's Office*

Administrative Circular No. 14-14—Holiday Trees and Decorations in Commonwealth-Owned or Leased Buildings, Dated November 13, 2014.

LAURA CAMPBELL,  
*Director*  
*Pennsylvania Code and Bulletin*

[Pa.B. Doc. No. 14-2657. Filed for public inspection December 19, 2014, 9:00 a.m.]

## PENNSYLVANIA CONVENTION CENTER AUTHORITY

### Statements; Net Position; Revenues, Expenses and Changes in Net Position

#### Statements of Net Position as of June 30, 2014 and 2013

	2014	2013
<b>Assets</b>		
Cash and cash equivalents	\$ 44,883,209	\$ 21,758,000
Receivables, net	2,661,606	3,586,369
Operating Agreement Receivable	2,517,124	—
Prepaid expenses and other assets	1,091,421	1,140,466
Total current assets	51,153,360	26,484,835
<i>Capital assets being depreciated</i>		
Buildings	754,480,131	754,471,985
Building improvements	2,853,339	2,647,214
Construction-in-progress	2,786,466	3,533,081
Furniture and fixtures	30,268,277	28,367,309
Equipment	134,304,743	131,529,443
Leasehold improvements	2,214,698	2,214,698
	926,907,654	922,763,730
<i>Less: Accumulated depreciation</i>	(253,442,649)	(224,568,170)
<i>Capital assets not being depreciated</i>		
Land	993,835	993,835
Fine arts	2,327,254	2,327,254
Total capital assets, net	676,786,094	701,516,649
Welcome Fund receivable	122,000,000	122,000,000
Total assets	849,939,454	850,001,484
<b>Liabilities</b>		
Accounts payable and other accrued expenses	8,654,288	8,225,852
Operating agreement liability	—	1,994,712
Unearned income	1,513,829	1,483,169
Current portion of term loan payable	153,687	148,416
Current portion of net OPEB liability	274,963	176,279
Total current liabilities	10,596,767	12,028,428
Loans payable	123,043,753	123,197,440
Net OPEB liability	3,678,335	3,593,196
Total liabilities	137,318,855	138,819,064

**Net Position**

Invested in capital assets	676,786,094	701,516,649
Restricted by Commonwealth of Pennsylvania Operating Agreement	35,834,505	9,665,771
Total net position	<u>\$ 712,620,599</u>	<u>\$ 711,182,420</u>

The accompanying notes are an integral part of these financial statements.

**Statements of Revenues, Expenses and Changes in Net Position  
for the Years Ended June 30, 2014 and 2013**

	<u>2014</u>	<u>2013</u>
Operating Revenues		
<i>Convention Center events</i>		
Space license fees	\$ 6,232,972	\$ 6,672,643
Commissions	6,295,006	6,550,080
Other	909,402	882,193
Total operating revenues	<u>13,437,380</u>	<u>14,104,916</u>
Operating expenses, excluding depreciation	<u>34,101,995</u>	<u>32,074,380</u>
Operating loss after depreciation	(20,664,615)	(17,969,464)
Depreciation	<u>28,874,479</u>	<u>28,365,185</u>
Operating loss after depreciation	(49,539,094)	(46,334,649)
Non-Operating Revenue (Expense)		
Hotel tax income	29,812,296	29,065,461
Interest income	15,153	7,843
Operating agreement expense	(6,682,283)	(11,828,975)
Interest expense	(41,994)	(47,059)
Grant income	—	100,000
Welcome Fund loan interest and fee revenue	1,855,415	1,855,415
Welcome Fund loan interest and fee expense	(1,855,415)	(1,855,415)
Other expenses	(1,603,899)	(1,664,898)
Total non-operating revenue, net	<u>21,499,273</u>	<u>15,632,372</u>
Decrease in net position before contributions	(28,039,821)	(30,702,277)
Capital contributions	<u>29,478,000</u>	<u>2,242,839</u>
Increase/(Decrease) in net position	1,438,179	(28,459,438)
Net position, beginning of year	<u>711,182,420</u>	<u>739,641,858</u>
Net position, end of year	<u>\$ 712,620,599</u>	<u>\$ 711,182,420</u>

The accompanying notes are an integral part of these financial statements.

GREGORY J. FOX,  
*Chairperson*

[Pa.B. Doc. No. 14-2658. Filed for public inspection December 19, 2014, 9:00 a.m.]

# PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY

## Financial Statement

Under the provisions of section 207 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (53 P. S. § 12720.207), the Pennsylvania Intergovernmental Cooperation Authority (Authority) is required to publish a “concise financial statement” annu-

ally in the *Pennsylvania Bulletin*. The Authority has issued its annual report for its fiscal year ended June 30, 2014, which includes an audit for this period performed in accordance with generally accepted auditing standards by an independent firm of certified public accountants. The completed annual report of the Authority may be obtained from the Authority’s web site at [www.picapa.org](http://www.picapa.org) or from the Pennsylvania Intergovernmental Cooperation Authority, 1500 Walnut Street, Suite 1600, Philadelphia, PA 19102, (215) 561-9160.

HARVEY M. RICE,  
*Executive Director*

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY  
STATEMENT OF NET POSITION  
June 30, 2014

ASSETS	Governmental Activities
Cash and cash equivalents:	
Held by trustee	\$ 52,393,031
Other	10,265,019
Investments	58,674,493
Fair value of derivative instruments	3,101,372
Accrued interest receivable	706
Prepaid expenses	19,973
	<hr/>
Total assets	<u>\$ 124,454,594</u>
LIABILITIES	
Accounts payable and accrued expenses	\$ 103,622
Due to City of Philadelphia	5,604,925
Current portion of bonds payable	47,685,000
Noncurrent portion of bonds payable	349,078,652
	<hr/>
Total liabilities	<u>402,472,199</u>
NET POSITION	
Restricted for debt service	81,084,621
Restricted for the benefit of the City of Philadelphia	13,018,550
Unrestricted:	
Board-designated for operating budget	600,000
Undesignated (deficit)	(372,720,776)
	<hr/>
Total net position	<u>(278,017,605)</u>
	 <u>\$ 124,454,594</u>
Expenses:	
Grants to City of Philadelphia	\$ 318,767,669
General management and support- general operations	766,015
Interest on long-term debt	20,374,150
Investment expenses	422,963
Realized loss on sale of investment	877,574
	<hr/>
Total Expenses	341,208,371
Revenues:	
PICA taxes	380,599,407
Amortization of bond premium	3,912,711
Investment income	4,921,905
Other	3,208,203
	<hr/>
Total Revenues	392,642,226
Change in net position	51,433,855
Adjusted net position - July 1, 2013	<u>(329,451,460)</u>
Net position- June 30, 2014	<u>\$ (278,017,605)</u>

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY  
STATEMENT OF FUND NET POSITION - GOVERNMENTAL FUNDS  
FOR THE YEAR ENDED JUNE 30, 2014

	General	Debt Service Funds		Debt Service Reserve Fund	Rebate Fund	Expendable Trust Funds Capital Projects Funds			Total Governmental Funds
		2010	2009			1992	1993	1994	
<b>Assets:</b>									
Cash and cash equivalents	\$ 10,265,019	4,164,617	6,829,308	26,267,757	1,993,064	377,766	449,944	12,190,740	\$ 62,658,050
Investments	10,759,986	-	-	47,914,497	-	-	-	-	58,674,483
Due from Debt Service Funds	-	100	164	189	16	2	3	95	5,465,091
Accrued interest receivable	137	-	-	-	-	-	-	-	706
Prepaid expenses	19,973	-	-	-	-	-	-	-	19,973
Total assets	\$ 21,045,126	4,164,717	6,829,472	74,182,443	1,993,080	377,768	449,947	12,190,835	\$ 126,838,313
<b>Liabilities:</b>									
Accounts payable	\$ 92,939	-	-	-	-	-	-	-	\$ 92,939
Due to the City of Philadelphia	-	-	-	-	-	-	-	-	5,604,925
Due to the PICA Tax Revenue Fund	-	2,070,437	3,414,654	-	-	-	-	-	5,485,091
Accrued payroll and taxes	10,683	-	-	-	-	-	-	-	10,683
Total liabilities	108,622	2,070,437	3,414,654	-	-	-	-	-	11,193,638
<b>Fund balances:</b>									
Restricted:									
For debt service	\$ -	2,094,280	3,414,818	73,582,443	1,993,080	377,768	449,947	12,190,835	\$ 81,084,621
For benefit of City of Philadelphia	-	-	-	-	-	-	-	-	13,018,550
Committed:									
For subsequent PICA administration	-	-	-	600,000	-	-	-	-	600,000
For future swaption activity	10,301,342	-	-	-	-	-	-	-	10,301,342
Unassigned	10,640,162	-	-	-	-	-	-	-	10,640,162
Total fund balance	20,941,504	2,094,280	3,414,818	74,182,443	1,993,080	377,768	449,947	12,190,835	115,644,675
Total liabilities and fund balances:	\$ 21,045,126	4,164,717	6,829,472	74,182,443	1,993,080	377,768	449,947	12,190,835	\$ 126,838,313

Amounts reported for governmental activities in the statement of net assets are different due to

Long-term liabilities are not due and payable in the current period and therefore are not reported in the governmental fund statements

Fair value derivative instruments are not reported in the governmental funds statements

Premium on bonds is deferred in the government wide statements

Net assets of governmental activities

(863,640,000)
3,101,372
(33,123,652)
\$ (278,017,609)

**PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY  
STATEMENT OF REVENUE, EXPENDITURES, AND CHANGES IN FUND BALANCES - GOVERNMENTAL FUNDS  
FOR THE YEAR ENDED JUNE 30, 2014**

	General	PICA Tax Revenue	Debt Service Funds		Debt Service Reserve Fund	Rebate Fund	Expendable Trust Funds			Total Governmental Funds
			2010	2009			Capital Projects Funds	1992	1993	
Revenue:										
PICA taxes	\$ -	\$ 380,599,407	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 380,599,407
Investment income	269,141	8,943	1,219	2,039	4,543,986	202	38	46	1,238	4,826,852
Other	3,208,203	-	-	-	-	-	-	-	-	3,208,203
<b>Total revenue</b>	<b>3,477,344</b>	<b>380,608,350</b>	<b>1,219</b>	<b>2,039</b>	<b>4,543,986</b>	<b>202</b>	<b>38</b>	<b>46</b>	<b>1,238</b>	<b>388,634,462</b>
Expenditures:										
Grants to the City of Philadelphia	-	318,744,911	-	-	-	-	-	-	22,758	318,767,669
Debt Service:										
Principal	-	-	16,995,000	28,645,000	-	-	-	-	-	45,640,000
Interest	-	-	8,025,000	12,349,150	-	-	-	-	-	20,374,150
Administration:										
Investment expenses	622,963	-	-	-	-	-	-	-	-	622,963
Realized Loss on Sale of Investment	877,574	-	-	-	-	-	-	-	-	877,574
Operations	786,013	-	-	-	-	-	-	-	-	786,013
<b>Total expenditures</b>	<b>2,066,552</b>	<b>318,744,911</b>	<b>25,020,000</b>	<b>40,994,150</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>22,758</b>	<b>386,848,371</b>
Excess of revenues over (under) expenditures	1,410,792	61,863,439	(25,018,781)	(40,992,111)	4,543,986	202	38	46	(21,520)	1,786,091
Other financing sources (uses)-										
Net operating transfers in (out)	(1,309,767)	(61,863,439)	25,020,000	40,977,173	(2,823,967)	-	-	-	-	-
Change in net position	101,025	-	1,219	(14,938)	1,720,019	202	38	46	(21,520)	1,786,091
Adjusted Fund Balances, July 1, 2013	20,840,479	-	2,093,061	3,429,756	72,462,424	1,992,878	377,730	449,901	12,212,355	113,858,584
Fund Balances June 30, 2014	\$ 20,941,504	\$ -	\$ 2,094,280	\$ 3,414,818	\$ 74,182,443	\$ 1,993,080	\$ 377,768	\$ 449,947	\$ 12,190,835	\$ 115,644,675
Reconciliation of change in fund balance to change in net position:										
Change in fund balance										
Repayment of bond principal is an expenditure in the governmental funds, but the repayment reduces the long-term liabilities in the government-wide statements										
Bond premium is amortized over the life of bonds in the government-wide statements										
Derivative valuation adjustment is recognized as an asset and revenue in the government wide statements										
Change in net position										
95,053										
<u>\$ 51,433,855</u>										

[Pa.B. Doc. No. 14-2659. Filed for public inspection December 19, 2014, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by January 5, 2015. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

### Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

**A-2014-2447631. Menia Transportation, LLC** (607 Forrest Street, Harrisburg, Dauphin County, PA 17110) for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the Counties of Adams, Cumberland, Dauphin, Lancaster, Perry and York, to points in Pennsylvania and return.

**A-2014-2449973. E&L Day Trips, LLC** (1 Hemlock Lane, Strasburg, PA 17579) for the right to begin to transport, as a common carrier, by motor vehicle, persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Lancaster County, to points in Pennsylvania, and return; excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

**A-2014-2450435. New Rhoads Transportation, Inc.** (96 Weavertown Lane, Douglassville, PA 19518) for the right to begin to transport, as a common carrier, by motor vehicle, persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the Counties of Berks, Lancaster, Montgomery and Chester, and from points in said counties to points in Pennsylvania and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Craig A. Doll, Esquire, P. O. Box 403, Hummelstown, PA 17036-0403.

### Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.

**A-2014-2438795. Valerio Fortunato Tuali Kibinda** (2990 East Market Street, York, PA 17404) for the right to begin to transport, as a common carrier, by motor vehicle, persons, in call or demand service, which is to be a transfer of all rights authorized under the certificate issued at A-6311745 to Taxi Express, LLC, subject to the same limitations and conditions.

Applications of the following for approval to begin operating as a broker for transportation of household goods as described under the application.

**A-2014-2450262. Auto's Landscaping, Inc. t/d/b/a Ellis Moving Co.** (P. O. Box 99651, Pittsburgh, PA 15233) for a brokerage license, evidencing the Commission's approval of the beginning of the right and privilege to operate as a broker, to arrange for the transportation of household goods in use, between points in Pennsylvania.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 14-2660. Filed for public inspection December 19, 2014, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority will accept sealed bids for Project No. 14-113.1, PAMT Pavement Improvements Phase 1, until 2 p.m. on Friday, January 16, 2015. Information (including mandatory prebid information) can be obtained from the web site [www.philaport.com](http://www.philaport.com) under Procurement or call (215) 426-2600.

JAMES T. McDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 14-2661. Filed for public inspection December 19, 2014, 9:00 a.m.]

## STATE ATHLETIC COMMISSION

### Public Meetings for 2015

The State Athletic Commission (Commission) of the Department of State announces its schedule for regular meetings to be held at least once every 2 months in 2015 under 5 Pa.C.S. § 103 (relating to duties of commission). Meetings will be held at 11 a.m. in Room 303, North Office Building, Harrisburg, PA 17120. These meetings are open to the public and are scheduled as follows:

February 25, 2015  
April 29, 2015  
June 24, 2015  
August 26, 2015  
October 28, 2015  
December 16, 2015

Individuals having questions regarding these meetings should contact the Commission at (717) 787-5720.

GREGORY P. SIRB,  
*Executive Director*

[Pa.B. Doc. No. 14-2662. Filed for public inspection December 19, 2014, 9:00 a.m.]

## STATE BOARD OF BARBER EXAMINERS

### Bureau of Professional and Occupational Affairs v. Jimmy Jones; Doc. Nos. 1828-42-2014 and 1829- 42-2014

On October 24, 2014, Jimmy Jones, license no. BL051921 of York, York County, was suspended under the Order of the Court of Common Pleas of York County dated October 13, 2014, which the court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Thomas A. Blackburn, Senior Counsel in Charge, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649.

JOHN E. PAYNE, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 14-2663. Filed for public inspection December 19, 2014, 9:00 a.m.]

## STATE BOARD OF DENTISTRY

### Revocation of the License of Clyde Knox, DDS; Doc. No. 0014-46-2014; File No. 12-46-07583

On October 29, 2014, the State Board of Dentistry (Board) revoked the license of Clyde Knox, license no. DS022033L, last known of Sicklerville, NJ, because of failing to provide for the disposition of patient records.

Individuals may obtain a copy of the adjudication by writing to Jason McMurry, Board Counsel, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the Board's final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

LISA P. DEEM, DMD, JD,  
*Chairperson*

[Pa.B. Doc. No. 14-2664. Filed for public inspection December 19, 2014, 9:00 a.m.]

## STATE BOARD OF NURSING

### Bureau of Professional and Occupational Affairs v. Sharon Carroll, LPN; File No. 14-51-09237; Doc. No. 1641-51-14

On September 24, 2014, Sharon Carroll, LPN, license no. PN259455L, of Indiana, Indiana County, had her

nursing license automatically suspended for no less than 1 year based on her misdemeanor conviction under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).

Individuals may obtain a copy of the adjudication by writing to Megan E. Castor, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This order represents the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

ANN M. COUGHLIN, MBA, MSN, RN,  
*Chairperson*

[Pa.B. Doc. No. 14-2665. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Bureau of Professional and Occupational Affairs v. Susan M. Frank, LPN; File No. 14-51-11288; Doc. No. 1935-51-14

On September 24, 2014, Susan M. Frank, LPN, license no. PN079904L, last known of York, York County, had her nursing license automatically suspended for no less than 2 years based on her misdemeanor convictions under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).

Individuals may obtain a copy of the notice and order of automatic suspension by writing to Megan E. Castor, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

Individuals may file a request for a hearing to challenge the validity of the notice and order of automatic suspension along with an answer within 20 days of publication of this notice. If a request for hearing and answer are not filed within the time period set forth previously, a final order suspending their license will be issued by the State Board of Nursing (Board). The Board contact for receiving service of appeals is the previously-named Board counsel.

ANN M. COUGHLIN, MBA, MSN, RN,  
*Chairperson*

[Pa.B. Doc. No. 14-2666. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Bureau of Professional and Occupational Affairs v. Leslie A. Johnson, LPN; File No. 13-51-00530; Doc. No. 1499-51-13

On October 15, 2014, Leslie L. Johnson, LPN, license no. PN085693L, last known of Lancaster, Lancaster County, was automatically suspended for a period of 1 year, retroactive to September 4, 2014, based on her misdemeanor conviction in violation of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).

Individuals may obtain a copy of the adjudication by writing to Megan E. Castor, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This order represents the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

ANN M. COUGHLIN, MBA, MSN, RN,  
*Chairperson*

[Pa.B. Doc. No. 14-2667. Filed for public inspection December 19, 2014, 9:00 a.m.]

## STATE CONSERVATION COMMISSION

### Access to Odor Management Plans for Concentrated Animal Operations and Concentrated Animal Feeding Operations and Volunteers Complying with the Commonwealth's Facility Odor Management Program

The State Conservation Commission (Commission) is notifying the public that information relating to Odor Management Plans (Plans) submitted for Commission action under 3 Pa.C.S. §§ 501–522 (relating to nutrient management and odor management) will be available at the Commission's webpage at <http://www.pda.state.pa.us/scc> (click on "Programs," then click on "Odor Management Program," then select "Odor Management plans currently under review by the State Conservation Commission") or by contacting the Commission office.

The Commission's Odor Management Program webpage provides the name, address, animal equivalent units, animal type, Odor Site Index score and submission type for the various Plans under review by the Commission. The listing of Plans under review can also be accessed by contacting the Commission's Harrisburg office at (717) 787-8821. The Commission will not take an action on a submitted Plan until it has been noticed on this list for a minimum of 21 days.

All Commission actions on submitted Plans will be published in the *Pennsylvania Bulletin*.

Persons wishing to view or obtain a copy of submitted Plans are directed to submit a formal Right-to-Know request to the Department of Agriculture (Department) to arrange access to the Plans currently under review.

Persons wishing to comment on a Plan under review by the Commission are invited to submit a written statement outlining their comments on a Plan to the Commission's Odor Management Program within 21 days from the Plan notice date provided on the Commission's listing of Plans under review. Individuals with a question relating to the submission of comments on a Plan under review may contact the Commission office by phone to discuss the process for the submission of comments. Comments should include the name, address and telephone number of the writer, and a concise statement to inform the Commission of the exact basis of the com-

ments and the relevant facts upon which they are based. Comments may be submitted, in writing, to the State Conservation Commission, Department of Agriculture, Attn: Odor Management Program Coordinator, 2301 North Cameron Street, Room 311, Harrisburg, PA 17110.

Persons with a disability who wish to provide comments and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

DANA K. AUNKST,  
*Acting Chairperson*

[Pa.B. Doc. No. 14-2668. Filed for public inspection December 19, 2014, 9:00 a.m.]

## STATE REAL ESTATE COMMISSION

### Bureau of Professional and Occupational Affairs v. Anthony John Hughes, Sr.; Doc. No. 1771-56-2012; File No. 12-56-01552

On October 6, 2014, the State Real Estate Commission (Commission) assessed a civil penalty of \$2,800, ordered to make up the deficiency and complete additional continuing education, and suspended indefinitely the license of Anthony John Hughes, Sr., license no. AB066166 of Philadelphia, Philadelphia County, because he failed to reply to an audit and complete the continuing education requirements.

Individuals may obtain a copy of the order by writing to Juan A. Ruiz, Commission Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the Commission's final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of their petition for review. The Commission contact for receiving service of appeals is the previously-named Commission counsel.

ANNIE HANNA CESTRA,  
*Chairperson*

[Pa.B. Doc. No. 14-2669. Filed for public inspection December 19, 2014, 9:00 a.m.]

### Bureau of Professional and Occupational Affairs v. Betty Jean Wagner; Doc. No. 1468-56-2012; File No. 12-56-01009

On October 6, 2014, the State Real Estate Commission (Commission) assessed a civil penalty of \$2,800, ordered to make up the deficiency and complete additional continuing education, and suspended indefinitely the license of Betty Jean Wagner, license no. RB022887A of Berks County, because she failed to reply to an audit and complete the continuing education requirements.



Individuals may obtain a copy of the order by writing to Juan A. Ruiz, Commission Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the Commission's final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of their petition for review. The Commission contact for receiving service of appeals is the previously-named Commission counsel.

ANNIE HANNA CESTRA,  
*Chairperson*

[Pa.B. Doc. No. 14-2670. Filed for public inspection December 19, 2014, 9:00 a.m.]

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## THADDEUS STEVENS COLLEGE OF TECHNOLOGY

### Request for Bids

Thaddeus Stevens College of Technology is soliciting bids for project 14-2748, drive up frame machine with

three towers and a computerized measuring system. Bid documents can be obtained from Carrie Harmon, Thaddeus Stevens College, 750 East King Street, Lancaster, PA 17602, (717) 299-7787, harmon@stevenscollege.edu.

DR. WILLIAM E. GRISCOM,  
*President*

[Pa.B. Doc. No. 14-2671. Filed for public inspection December 19, 2014, 9:00 a.m.]

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### Request for Bids

Thaddeus Stevens College of Technology is soliciting bids for project 14-2749 for cabinetry and furniture to outfit a Water and Environmental Technology Program laboratory. Major items include fume hood, counter tops, plumbing fixtures, eye wash station and related cabinetry. Bid documents can be obtained from Carrie Harmon, Thaddeus Stevens College, 750 East King Street, Lancaster, PA 17602, (717) 299-7787, harmon@stevenscollege.edu.

DR. WILLIAM E. GRISCOM,  
*President*

[Pa.B. Doc. No. 14-2672. Filed for public inspection December 19, 2014, 9:00 a.m.]

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